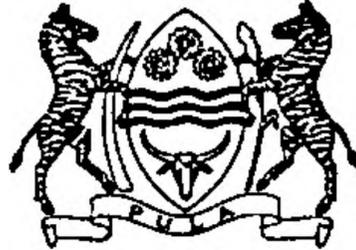


FIRE SERVICE ACT, 1994

No. 6



of 1994

ARRANGEMENT OF SECTIONS

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An Act to provide for the creation of a Fire Service for Botswana

Date of Assent: 19th April, 1994.

Date of Commencement: On publication.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Fire Service Act, 1994.

2. In this Act, unless the context otherwise requires —

“Council” means a district council established under the Local Government (District Councils) Act, or a town or city council established under the Townships Act, as the case may be, and shall also include a township authority;

“Council area” means the area for the administration of which a Council is responsible.

3. (1) There shall be a Fire Service for Botswana, which shall be part of the Unified Local Government Service, and shall be comprised of such fire brigades as shall be necessary or desirable for the prevention and control of fires in Botswana.

Short title

Interpretation

Establishment
of fire service

(2) There shall be a Fire Service Director, hereinafter referred to as "the Director", who shall be a public officer and whose duties shall include the organization, co ordination and regulation of fire brigades throughout Botswana.

Establishment
of fire brigades

4. (1) When the Director is of the opinion that a fire brigade should be established in any Council area, he shall so advise the Council concerned and the Establishment Secretary, at the same time making such recommendations regarding the size of the brigade, its situation, the equipment required, the training to be provided, and any other matters that he considers relevant.

(2) Upon receipt of the advice and recommendations of the Director, the Council concerned shall proceed to take whatever steps are necessary to provide a suitable site for a fire station, housing for personnel, whatever vehicles and equipment are necessary for the proper operation of the fire brigade, and to deal with any other matters required under this Act, or referred to or recommended by the Director, and the Establishment Secretary shall make the necessary appointments of personnel to constitute the fire brigade.

(3) Promotions within the Fire Service, transfers between brigades, schemes of service and training, and conditions of service shall be made or determined by the Establishment Secretary, in consultation with the Director, and with the senior officer of the brigade concerned.

Provision of
adequate water
supplies

5. (1) Each Council shall be responsible for ensuring that adequate supplies of water are available and secured for use when required in case of fire, and for this purpose may enter into agreement with the relevant water authority appointed under the provisions of the Waterworks Act, and the water authority shall not unreasonably refuse to enter into such an agreement.

(2) Any question as to whether a water authority has unreasonably refused to enter into such an agreement shall be determined by the Minister, after consultation with the Minister for the time being responsible for water affairs.

(3) The relevant water authority shall, at the request of the Director, or of the senior officer of the fire brigade concerned, and in accordance with any regulations made under section 14 —

(a) fix fire hydrants, capable of providing adequate supplies of water, on its mains at such places as may be most effective or convenient for providing water necessary to extinguish fires within the Council area, and when necessary replacing such hydrants:

Provided that the fire brigade of the area concerned may carry out such regular standard tests of such hydrants as it considers necessary to ensure that they are maintained in good working order and capable of providing adequate supplies of water in case of fire;

(b) cause such fire hydrants to be plainly indicated by notice or distinguishing sign placed adjacent thereto or on any wall or fence near by.

(4) The cost of maintaining such hydrants shall be met by the Council concerned:

Provided that —

- (a) where an area is to be or is being developed, the cost of supplying and fixing fire hydrants shall be borne by the body responsible for the development; and
- (b) where any hydrant is damaged as the result of any use made of it, with or without the consent of the water authority, other than for fire-fighting purposes or for any other purpose of a fire brigade, the person responsible for such damage shall be liable for the cost of repairing or replacing the hydrant concerned.

(5) Any person who uses a fire hydrant, other than for fire-fighting purposes or any other purpose of a fire brigade, or other than for any purpose authorized by a water authority or by any person to whom the hydrant belongs, and any person who damages or obstructs any fire hydrant otherwise than in consequence of its use for such an authorized purpose, or any person who makes an unauthorized connexion to a fire hydrant, shall be guilty of an offence and liable to a fine of P3 000 and to imprisonment for three years.

(6) The Director may take whatever steps are necessary to ensure that water supplies and fire hydrants will be adequate to cope with any fire that may occur, that fire hydrants are strategically placed and that they and other fire fighting apparatus and equipment are standardised and suitable for the purpose.

(7) A Council may, on the advice of the Director, by agreement —

- (a) secure the use, in case of fire, of water under the control of any person other than a water authority;
- (b) improve access to any such water; and
- (c) lay and maintain pipes and carry out other works in connexion with the use of such water in case of fire.

(8) In case of any fire —

- (a) a fire brigade may use for fire-fighting purposes any convenient and suitable supply of water, but shall be liable to replace any water used, or to pay compensation therefor;
- (b) a water authority shall, on being required by the most senior fire brigade officer present to provide a greater supply and pressure of water for extinguishing a fire, take all necessary steps to comply with such requirement, and may for such purpose shut off water at the mains or in any pipes in any area; and no authority or person shall be liable to any penalty or claim by reason of any interruption of the supply of water occasioned by any compliance with such a requirement.

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

Notice of
proposed works
likely to affect
water supply

(2) At least seven days before any works are begun which affect or are likely to affect any fire hydrant, the person by whom such works are to be executed shall give written notice thereof to the fire brigade of the area in which hydrant is situated:

Provided that where, in an emergency, it is not practicable for notice to be given at the time required under the provisions of this subsection, it shall be sufficient if such notice is given at the earliest practicable opportunity.

(3) Any person who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for six months.

Duties of fire officers

7. (1) Every fire officer shall be liable for duty at all times and may at any time be detailed for duty in any part of Botswana, as the Director may reasonably authorize or require.

(2) It shall be the duty of every fire officer, at all times, to perform and carry out the duties entrusted to him, to the best of his ability, and at all times to comply with any general or specific orders applicable to him, or as may be issued by the Director or by the senior fire officer of the fire brigade to which the fire officer is attached.

(3) It shall be the duty of every fire officer to do all in his power to protect persons and property in the event of fire.

Powers of fire officers and police officers in event of fire

8. (1) Any member of a fire brigade maintained in pursuance of the provisions of this Act, and any police officer, may, in the course of his duties, in the event of fire, enter and if necessary break into any place or premises in which a fire has or is reasonably believed to have broken out, or any place or premises which it is necessary to enter for the purpose of extinguishing a fire or of protecting it 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 such purpose or for rescuing any person or property therein.

(2) At any fire, the most senior fire brigade officer present shall have the sole charge and control of all operations for extinguishing the fire, including fixing the positions of fire engines and apparatus, attaching hoses to any water pipes, or the use of any water supply, and directing water hoses to any particular place, premises, object or part thereof, whether itself burning or adjacent to the fire.

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

(4) Any person who wilfully interferes with or obstructs any member of a fire brigade or a police officer engaged in fire fighting operations shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for four years.

9. Notwithstanding the provisions of any other law, in the event of any fire or other emergency, a fire engine or other fire brigade vehicle may, whilst proceeding to, or in attendance at, a fire or other emergency, be permitted to —

Use of vehicles
in case of fire
or other
emergency

- (a) sound any audible warning of approach whilst in traffic or in any built up area;
- (b) display red rotating or flashing lights;
- (c) exceed the prescribed speed limit for the area concerned;
- (d) proceed, with caution, in the wrong direction down any one-way street, if so required to facilitate the most rapid access to the location of such fire or emergency;
- (e) park in any area not specifically designated as a parking area, for the purpose of carrying out its duties in respect of the fire or emergency;
- (f) park, with the engine running, in the direction of, or against the normal flow of traffic;
- (g) traverse, with caution, vehicular control signals and signs, where the passage for the vehicle is clear, and other traffic will not be endangered;
- (h) park or proceed on sidewalks, pavements, open spaces, paving or forecourts, if necessary to gain access for fire fighting or rescue purposes;
- (i) require other road users to give right of way and not impede the passage of such vehicles; or
- (j) require unimpeded access to such area as may be necessary in all the circumstances for fire fighting or other emergency purposes.

10. (1) An authorized officer of a fire brigade shall, in the interests of fire prevention, —

Safety
measures
by fire
brigades

- (a) obtain and compile information, by inspection and otherwise, with regard to the character of buildings and other property in the area of the fire brigade, the available water supplies, the means of access to such buildings or property, and any other local circumstances;
- (b) when so requested, give advice in respect of any buildings or other property in the area of the fire brigade, for the purpose of fire prevention, restricting the spread of fires and providing means of escape in the event of fire.

(2) An officer of a fire brigade, so authorized in writing by the senior officer of such brigade, may enter any premises at a reasonable hour for the purposes of carrying out any inspection as referred to in subsection (1)(a).

11. No action shall lie in any court against any fire officer, or any police officer, or any person acting under the instructions of such fire officer or police officer, in respect of any damage caused in the exercise of any powers conferred or the performance of any duties imposed under the provisions of this Act, unless it is proved that such damage was caused mala fide.

Exemption
from liability
for damage

False alarms

12. Any person who knowingly gives or causes to be given a false alarm to any fire brigade or any member of such a brigade shall be guilty of an offence and liable to a fine of P3 000 and to imprisonment for three years.

Enquiries and directions by Minister

13. (1) The Minister may hold, or cause to be held, a public inquiry into the manner in which any fire brigade is carrying out its duties or performing its functions under this Act, or into the circumstances of, or the steps taken to deal with, any particular fire or other emergency.

(2) The Minister may give instructions, either generally or in a particular instance, as to the operations of fire brigades or of a particular fire brigade, in the interests of protecting persons and property in the event of fire.

Regulations

14. The Minister may make regulations for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of the foregoing such regulations may provide for all or any of the following matters —

- (a) the creation of fire brigades;
- (b) the ranks constituting fire brigades, the qualifications therefor, and the procedure for appointments thereto or promotion therein;
- (c) regulating and standardizing uniforms to be worn by members of fire brigades, and badges or indications of rank;
- (d) regulating hours and conditions of work, and the granting of leave;
- (e) regulating and maintaining standards of discipline necessary for fire brigades;
- (f) regulating and maintaining standards of training for members of fire brigades;
- (g) the establishment and maintenance of a central training institution for members or applicants for membership of fire brigades, and local training centres;
- (h) the design, performance and standardization of equipment and fire hydrants;
- (i) co-operation between fire brigades in the event of one fire brigade being requested to assist another fire brigade in fighting a fire.

Repeal of Cap 40:04

15. The Fire Services Act is hereby repealed.

PASSED by the National Assembly this 5th day of April, 1994.

T.G.G.G. SEELETSO,
Clerk of the National Assembly.