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OF THE

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 221 2006

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 5 of 2006: Local Authorities Fire Brigade Services Act, 2006.

Act No. 5, 2006 LOCAL AUTHORITIES FIRE BRIGADE SERVICES ACT, 2006**ACT**

To provide for the establishment, maintenance, utilisation, co-ordination and standardisation of fire brigade services by local authorities; and for matters connected therewith.

(Signed by the President on 22 December 2006)

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BE IT ENACTED by the Parliament of the Republic of Namibia, as follows-

Definitions

1. In this Act, unless the context otherwise indicates -

“chief executive officer” means the chief executive officer of a local authority;

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“chief fire officer” means the person in charge of a service as contemplated in section 3;

“emergency” means any situation requiring immediate action to prevent death of or injury to persons or damage to property, but not a declared state of emergency in terms of any law;

“equipment” means a vehicle or any other apparatus, intended to be used by a service in the performance of its functions;

“local authority” means a local authority council as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992), and in relation to a settlement area as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992), the regional council concerned, as the case may be;

“local authority area” means a local authority area as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992), and in relation to a settlement area as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992), the area within the boundaries determined as contemplated in section 31(1) of the Regional Councils Act, as the case may be;

“material” means water or any other substance expended by a service in the performance of its functions;

“Minister” means the Minister responsible for local government matters;

“prescribe” or “prescribed” means prescribe or prescribed by regulation;

“reserve force” means a fire brigade reserve force contemplated in section 5(1);

“service” means a fire brigade service contemplated in section 2 and intended to be utilised as contemplated in section 8;

“this Act” includes any regulation made thereunder; and

“training institution” means a training institution referred to in section 7(1).

Establishment, maintenance and subsidisation of service

2. (1) A local authority may establish and maintain a service on a full-time or a part-time basis.

(2) The Minister may direct, after consultation with the local authority concerned, a local authority -

- (a) to maintain a service established under subsection (1); or
- (b) to establish and maintain a service on a full-time or a part-time basis,

in accordance with the standards and requirements prescribed by the Minister.

(3) Subject to this Act, the Minister must subsidise a service contemplated in subsection (2) from funds voted for the purpose by Parliament.

Act No. 5, 2006 LOCAL AUTHORITIES FIRE BRIGADE SERVICES ACT, 2006**Appointment of chief fire officer**

3. (1) A local authority, which has established a service as contemplated in section 2, must appoint, subject to the qualifications and experience prescribed by the Minister, a person as chief fire officer to be in charge of its service.

(2) A person who immediately prior to the commencement of this Act was in the service of a local authority as a chief fire officer in terms of a law which is repealed by this Act is deemed to have been appointed in terms of subsection (1).

Members of service

4. (1) A local authority may, subject to subsection (2), appoint any person as a member of its service who possesses the qualifications and experience prescribed by the Minister to perform such functions as may be assigned to him or her by the chief fire officer.

(2) A local authority may, subject to the general conditions contemplated under subsection (3) and after due consideration of the peculiar circumstances of a specific case, appoint a person as a member of its service who is not a suitably qualified and experienced person as contemplated in subsection (1).

(3) The Minister may determine general conditions applicable to an appointment contemplated in subsection (2).

(4) The members of a service consists, subject to section 3, of -

- (a) persons in the full-time use of the local authority concerned;
- (b) persons in the part-time use of the local authority concerned;
- (c) part-time volunteers, whether paid or unpaid, who offer their services either on a permanent basis or for a class of fire or emergency only; and
- (d) any combination of persons referred to in paragraphs (a), (b) or (c).

(5) A person, other than a chief fire officer, who immediately prior to the commencement of this Act was utilised as a member of a service of a local authority in terms of a law which is repealed by this Act, is deemed to have been appointed in terms of subsection (1).

Fire brigade reserve force

5. (1) A local authority may establish a fire brigade reserve force for its local authority area.

(2) A chief fire officer may, subject to subsection (3) and on the conditions prescribed by the Minister, appoint a person who applied to be a member of its reserve force as such member.

(3) A member of a reserve force is a temporary member of the service and must perform, subject to subsection (4), the functions entrusted to him or her by the chief fire officer or a member of the service acting on behalf of the chief fire officer.

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(4) A member of a reserve force may only be utilised, as far as possible, for the performance of those functions for which he or she in the opinion of the chief fire officer or a member of the service acting on behalf of the chief fire officer has received adequate training.

(5) A chief fire officer may at any time discharge a member of a reserve force.

(6) A member of a reserve force has the same powers as a member of the service and must in the performance of his or her functions be regarded as a member of the service.

Decorations, medals and certificates

6. (1) The President may institute, subject to such requirements as he or she may consider necessary -

- (a) decorations and medals; and
- (b) in respect of decorations and medals referred to in paragraph (a), bars, clasps and ribbons,

which may be awarded by the Minister or any person designated by the Minister to any member of a service, including a chief fire officer, in respect of his or her service as such a member or chief fire officer, as the case may be, or to any other person in respect of exceptional service rendered in terms of this Act.

(2) The Minister may institute, subject to such requirements as he or she may consider necessary, service certificates which may be awarded by the chief executive officer or any person designated by the chief executive officer, to any member of a service, including a chief fire officer, in respect of his or her service as such a member or chief fire officer, as the case may be, or to any other person in respect of exceptional service rendered in terms of this Act.

Training institutions

7. (1) The Minister may -

- (a) on such conditions as he or she may determine by notice in the *Gazette*; and
- (b) after consultation with the local authority concerned,

declare a service contemplated in section 2 to be a training institution for basic or advanced training for members of the services in Namibia.

(2) The Minister may, after consultation with the local authority concerned, from time to time take such steps as he or she considers necessary or expedient for the proper control, management and development or the extension of the training facilities available at a training institution.

(3) If a local authority designates a member of a service to undergo training at a training institution such local authority must pay the cost of such training according to a tariff prescribed by the training institution.

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8. (1) A local authority must, unless otherwise requested or otherwise obliged in terms of an agreement entered into as contemplated in terms of section 15, utilise its service inside its local authority area.

- (2) A local authority may utilise its service for -
- (a) preventing the outbreak or spread of a fire;
 - (b) fighting or extinguishing a fire;
 - (c) the protection of life or property against a fire or other emergency;
 - (d) the rescue of life or property from a fire or other emergency;
 - (e) the rendering, subject to the Public Health Act, 1919 (Act No. 36 of 1919), of an ambulance service as an integral part of the service; or
 - (f) the performance of any other function connected with any of the matters referred to in paragraphs (a) to (e).

Powers of members of service

9. (1) The chief fire officer and any member of the service acting on authority of that chief fire officer may, if a service is utilised for the purposes contemplated in section 8(2), perform such acts and take such measures which in the opinion of such chief fire officer or such member are necessary or expedient under the circumstances.

(2) Without derogating from the generality of subsection (1), the chief fire officer and any member of the service referred to therein may, in the exercise of his or her powers or the performance of his or her functions or duties in terms thereof -

- (a) close any road or street temporarily;
- (b) enter or break into any premises and take temporary possession thereof;
- (c) damage, destroy, demolish, pull down or remove any property;
- (d) forcibly remove or cause to be removed from the scene concerned any person who is in danger or who obstructs the chief fire officer or any member of the service in the performance of his or her duties;
- (e) seize or make use of any material from any available source, whether or not such material is owned by or is under the control or management of the local authority concerned, but if such material -
 - (i) is not owned by or under the control or management of such local authority; or
 - (ii) is not the property of the proprietor or lessee of the premises on which the service is utilised,

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such local authority must subsequently compensate the owner of such material -

- (aa) to an amount as may be agreed upon between such local authority and such owner; or
- (bb) in the absence of such agreement contemplated in accordance with subparagraph (aa), to an amount determined by arbitration in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965).

(3) For the purposes referred to in section 8(2), a chief fire officer may -

- (a) temporarily take possession of and exercise control over any property;
- (b) at the withdrawal of a service from any property, take such steps as he or she may consider necessary or expedient under the circumstances with regard to such withdrawal and such property.

(4) Any -

- (a) member of the Namibian Police Force or the Namibian Defence Force; or
- (b) person who is of the age of 16 years or older, but not older than 60 years of age,

must assist any chief fire officer or a member of a service in the execution of his or her duties, if requested to do so by such chief fire officer or member.

(5) For the purpose of subsection (4), a member of the Namibian Police Force or the Namibian Defence Force has, in addition to any powers conferred on such member by law, the same powers as a member of a service.

(6) To the extent that this section authorises the interference with the privacy of a person's home such interference is deemed to be authorised on the grounds of public safety and the protection of the rights of others as contemplated in Article 13(1) of the Namibian Constitution.

Salvaging of movable property

10. (1) A chief fire officer may, in the performance of his or her functions, salvage or remove and place in safe custody any movable property which in his or her opinion is in danger.

(2) A local authority which incurred any costs in the salvage or removal and safe keeping referred to in subsection (1) may recover from the owner of such movable property all such costs reasonably incurred and that local authority has a lien on such property until such costs have been paid.

(3) If the costs referred to in subsection (2) are not fully paid within 30 days or such longer period as the local authority concerned may determine the local authority concerned may -

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- (a) after it has delivered to the owner of the movable property concerned a written demand for payment; or
- (b) if the owner of the movable property can not be traced, after notice has been given to the owner of the movable property by simultaneous publication in the *Gazette* and in the official language in one newspaper circulating in the local authority area concerned of the intention to sell the movable property concerned by public auction to recover costs,

sell such property by public auction, and the profit of such auction must be utilised to defray the costs, including the cost of the auction.

(4) Subject to subsection (5), the local authority concerned must pay the balance of the proceeds referred to in subsection (3) to the owner of the movable property concerned after all costs have been fully paid.

(5) If an owner referred to in subsection (4) cannot be traced and does not, within one year after the conclusion of the auction referred to in subsection (3), claim such balance, the balance will be forfeited to the local authority concerned.

Fees and levies

11. (1) A local authority may prescribe fees in respect of the services rendered by its service, including fees -

- (a) if such service has been declared a training institution in terms of section 7(1), for the cost of attendance by members of other services of fire brigade training courses at the training institution;
- (b) for the attendance of the service;
- (c) for the use of the service and equipment; or
- (d) for any material consumed in the course of training.

(2) A local authority may determine by notice in the *Gazette*, with the approval of the Minister, the levies payable in respect of the funding of its service, including, but not limited to, levies -

- (a) for calls which, while knowing it to be untrue or not having any good reason for believing it to be true, inform a service that a fire has occurred or any other emergency has arisen that requires the attention of the service;
- (b) for the obtaining, maintaining and repair of equipment, premises and buildings in relation to its services; and
- (c) in respect of anything done in relation to its powers mentioned in section 8(2).

(3) The chief fire officer of a local authority concerned must in writing assess the fees payable by any person on whose behalf a service has been utilised and the town treasurer of such local authority must collect it.

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(4) A person who feels aggrieved by an assessment contemplated in subsection (3) may, within 14 days after receipt of the assessment, object in writing against the assessment as such or the amount thereof to the local authority concerned.

(5) As soon as an objection contemplated in subsection (4) is received, the chief executive officer concerned must without delay obtain written comment thereon from the chief fire officer and submit it together with the objection to the local authority concerned, which may confirm, alter or revoke the assessment.

(6) A certificate purporting to be signed by a chief fire officer and in which it is certified that the assessment specified therein was made under subsection (3) will on production thereof in a court of law be *prima facie* proof of the amount payable in terms of the assessment by the person mentioned therein.

(7) Different -

(a) fees may be prescribed under subsection (1) in respect of services rendered in respect of different areas within a local authority area;

(b) levies may be determined under subsection (2) in respect of premises or property where there is a greater danger or risk as a result of anything which may be stored on a particular premises.

Payment of subsidy

12. (1) For the purpose of the subsidy referred to in section 2(3) a local authority must annually submit, subject to subsection (2), to the Minister for his or her approval an estimate of expected income and expenditure with regard to the service of such local authority.

(2) An estimate of expected income and expenditure referred to in subsection (1) must -

(a) be in the form and manner; and

(b) be submitted on a date,

determined by the Minister.

(3) If a local authority refuses or neglects to submit an estimate of income and expenditure as contemplated in subsection (1) in respect of any financial year to the Minister for his or her approval, no subsidy for that financial year is payable to such local authority in terms of section 2(3).

(4) A local authority may at any time amend, with the prior written consent of the Minister, an approved estimate of expected income and expenditure contemplated in subsection (1).

(5) Actual expenditure that in any financial year exceeds the expected expenditure indicated in the estimate which was approved for such financial year in terms of subsection (1) or amended in terms of subsection (4) will, to the extent to which it so exceeds that expected expenditure, not be taken into account in determining the amount of the subsidy referred to in subsection (1).

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(6) If a service of a local authority is combined with an ambulance service of that local authority, all income accruing to, and all expenditure incurred by such local authority in regard to its ambulance service, with the exception of expenditure incurred for the payment of salaries to members of its service who are also members of its ambulance service, will not be taken into account for the purpose of a subsidy contemplated in section 2(3).

(7) A local authority having a service as contemplated in section 2(2) must annually submit to the Minister on a date not later than 15 months after the date contemplated in subsection (1), or on such later date approved by the Minister, a written return certified as correct by the treasurer of such local authority reflecting -

- (a) the income, including the amount received in respect of levies, if any, actually accrued to, and the expenditure actually incurred by, that local authority in regard to its service during the immediately preceding financial year; and
- (b) any other information that the Minister may require.

(8) Subject to this section and section 13, the Minister must annually pay to a local authority a subsidy not exceeding the percentage determined by the Minister from time to time in the case of a full-time service or a part-time service, of the difference between the actual expenditure and the actual income referred to in subsection (7), but the Minister may effect, on receipt of the annual audit report in respect of that local authority, an adjustment by reclaiming any overpayment or making good any deficit.

(9) The Minister must in the determination of a subsidy contemplated in subsection (8) take into account the amount of the income of the local authority concerned which consist of levies, if any, contemplated in section 11(2).

Reduction of amount of subsidy and withholding of payment thereof

13. If a local authority having a service as contemplated in section 2(2), refuses or neglects to maintain such service in accordance with the standards and requirements prescribed by the Minister, the Minister may -

- (a) reduce in his or her discretion the subsidy payable to such local authority; or
- (b) withhold in his or her discretion payment of the subsidy payable to such local authority until such standards and requirements have been complied with.

Payment of advances on subsidies

14. Notwithstanding anything to the contrary contained in this Act, the Minister may pay, in his or her discretion and on such conditions as he or she may determine, advances to a local authority on a subsidy referred to in section 2(3).

Agreements in regard to making available or utilisation of services or material

15. (1) Subject to this section a local authority may enter into a written agreement with any person, including another local authority, a regional council or the State, in terms of which -

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- (a) the parties undertake to co-operate on the conditions as may be agreed upon; or
- (b) the service of the first-mentioned local authority or any material owned by or under the control or management of such local authority is made available to or utilised for the benefit of such person; or
- (c) any similar service maintained by such person or any material owned by or under the control of such person, is made available to or utilised for the benefit of the first-mentioned local authority,

either free of charge or against payment, for the more efficient utilisation of the service of the first-mentioned local authority.

(2) A local authority may under subsection (1) undertake to utilise its service inside or outside its local authority area.

(3) A local authority may conclude, with the concurrence of the Minister and the Minister of Foreign Affairs, an agreement in terms of which -

- (a) the local authority undertakes to make available its service, on such conditions as may be agreed upon, to any person, institution or body in any other State; or
- (b) a person, institution or body in any other State undertakes to make available its fire brigade service, on such conditions as may be agreed upon, to the local authority.

(4) If a service is made available or is utilised as contemplated in subsection (1) or subsection (3), as the case may be, such service is deemed -

- (a) if it is a local authority to which it is made available or for the benefit of which it is utilised; and
- (b) if such local authority maintains a similar service,

to be an integrated part of such similar service and under the command of the chief fire officer of the first mentioned service.

Urgent cases

16. (1) Notwithstanding anything to the contrary contained in this Act or any other law, the Minister or any person designated by him or her may, if in the opinion of the Minister urgent action relating to any emergency is necessary in the public interest -

- (a) order any person, including a local authority, to make available his or her or its service or equipment or material under his or her or its control, to a particular service or to utilise it in a particular way; or
- (b) order any person who manufactures equipment or material to manufacture particular equipment or material within a particular period.

(2) The Minister must, from monies made available for that purpose, cause a person who has acted in terms of an order referred to in subsection (1) to be compensated -

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- (a) to an amount agreed upon between the Minister and the person concerned; or
 - (b) in the absence of such agreement, to an amount determined by arbitration in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965).
- (3) If assistance has been rendered in terms of this section to a local authority or any other person or if any action in terms of this section by a local authority or any other person has been necessitated, the Minister may recover any amount spent in terms of subsection (2) from such local authority or person.

Combination of services

17. (1) Two or more local authorities may, if in their opinion it is expedient that their respective services be combined, enter into a written agreement combining their services for the purposes referred to in section 8.

(2) The Minister may direct by notice in writing, after consultation with the local authorities concerned, two or more local authorities to enter into an agreement as contemplated in subsection (1).

(3) An agreement contemplated in subsection (1) may *inter alia* provide, in so far as it may be necessary or expedient, for -

- (a) the date on which it is to become operative and the period for which it is to remain in force;
- (b) the exercise or performance, either jointly or by any of the parties to the agreement, of any power, function or duty in regard to any matter classed under this Act among the powers, functions or duties of a service, and the delegation by the parties of any or all such powers, functions or duties to one of them or to a joint committee established for the purpose by them;
- (c) the management and control of any matter falling within the powers of a local authority in terms of this Act or any other law;
- (d) the financial contribution, material, land, buildings or other property or equipment to be provided by each of the parties to the agreement;
- (e) the apportionment among the parties to the agreement of the revenues and expenditure of the combined service or the establishment by such parties of a combined service fund, the payment into that fund of all revenues, including the contributions by the parties to the agreement, and payments from the fund;
- (f) the recommendation of regulations to be made by the parties to the agreement in regard to any matter falling within the powers of a local authority in terms of this Act;
- (g) the terms and conditions on, or circumstances in, which any of the parties to the agreement may withdraw therefrom, or another local authority may become a party thereto;

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- (h) the entering into agreements with any other person, including the State, as contemplated in section 15.

(4) Subject to subsection (5), any agreement contemplated in this section must be submitted to the Minister for his or her approval, and no such agreement will become operative before the Minister has approved such agreement.

(5) Before an agreement contemplated in this section is submitted to the Minister for approval, every local authority being a party to such agreement must give at least 14 day's notice of having entered into such agreement and of the intention to submit it to the Minister for his or her approval, by the simultaneous publication of such notice in the official language in a newspaper circulating in the local authority area of such local authority.

(6) The contracting parties to an agreement contemplated in this section may by mutual agreement alter, modify or cancel that agreement, and subsections (4) and (5), adjusted as may contextually be necessary, apply to every such alteration, modification or cancellation, as the case may be.

- (7) If -

- (a) the local authorities which have been directed in terms of subsection (2) to enter into an agreement, fail to enter into such an agreement or fail to comply with subsection (5) in respect of such agreement within a period of six months after the service of the notice referred to in subsection (2); or
- (b) the agreement entered into in consequence of that notice is not approved by the Minister in terms of subsection (4),

the Minister may determine the terms and conditions of such agreement and that agreement is binding upon such local authorities and is for all purposes deemed to be an agreement entered into by them in terms of subsection (1) and approved in terms of subsection (4).

(8) Subject to the terms and conditions of an agreement contemplated in this section -

- (a) every local authority which is a party to such agreement and which is acting separately has, in respect of its local authority area; and
- (b) a local authority which is a party to such agreement and which is acting on behalf of the other parties to such agreement or a joint committee constituted by the parties and acting on their behalf has, in respect of the area affected by such agreement,

adjusted as may contextually be necessary, the rights and powers and may perform the functions and duties which a local authority has or is required to perform under this Act in regard to a matter contemplated in such agreement.

Indemnity

18. Subject to section 9(2)(e), a local authority, a chief fire officer, a member of a service, a member of the Namibian Police Force or the Namibian Defence Force or a person referred to in section 9(4)(b), is not liable for any damage or loss as a result of

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bodily injury, loss of life or loss of or damage to property which is caused by or arises out of or in connection with anything done or performed *bona fide* in the exercise or performance of a power, function or duty conferred or imposed in terms of this Act.

Regulations by Minister

19. (1) The Minister may make regulations which are not inconsistent with this Act or any other law in relation to -

- (a) the specifications and standards with which the equipment and material of a service must comply;
- (b) the control over and registration of the chief fire officer and members of a service; and
- (c) any other matter which, in terms of this Act, may or is required to be prescribed or is considered necessary or expedient to achieve the purposes of this Act, and the generality of this paragraph is not limited by matters expressly referred to in this subsection.

(2) Different regulations may be made under subsection (1) in respect of different areas or different categories of persons, services or equipment.

(3) A regulation contemplated in this section may not be made before -

- (a) the proposed regulation has been published in the *Gazette*, together with a notice calling upon interested persons to lodge any comments, representations or objections they may have against it in writing to the Permanent Secretary responsible for local government matters within the period mentioned therein; and
- (b) that period has expired.

(4) Subsection (3) does not apply to any amendment effected by the Minister to the proposed regulations as a result of objections received in terms of that subsection.

(5) Regulations made in terms of subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith, of a fine not exceeding N\$4000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Regulations by local authority

20. (1) A local authority may make, in the manner provided for by the Local Authorities Act, 1992 (Act No. 23 of 1992), regulations not inconsistent with this Act in relation to -

- (a) the regulation, control, use and organisation of a service, including the uniforms, insignia and identification of members of a service of a local authority;
- (b) the preventing and extinguishing of fires, and the preservation of life or property;

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- (c) the safety requirements to be complied with on premises in order to reduce the risk of a fire or other danger or to facilitate the evacuation of the premises in the event of such danger;
 - (d) the growth or accumulation on any land or premises of trees, bushes, weeds, grass or other matter in such manner as is likely to promote the kindling or spread of fire;
 - (e) the burning of rubbish, trees, bushes, weeds or grass, and the making of bonfires;
 - (f) the prevention of the dangerous or mischievous use, and the regulation, control, restriction or prohibition of the manufacture, storage, handling or conveyance of explosives, fire-works, petroleum or any other flammable or combustible substance, gas or any other dangerous substance;
 - (g) the servicing and maintenance of fire-fighting equipment; and
 - (h) any other matter which, in terms of this Act, may or is required to be prescribed or is considered necessary or expedient to achieve the purposes of this Act, and the generality of this paragraph is not limited by matters expressly referred to in this subsection.
- (2) The Minister may make model regulations in relation to any matter referred to in subsection (1).
- (3) Until a town council, a village council or a regional council in the case of a settlement area, makes regulations under subsection (1), the model regulations made under subsection (2) apply to any town, village or settlement area concerned, as the case may be, except to the extent as such town council, village council or regional council, after consultation with the Minister, may determine otherwise by notice in the *Gazette*.
- (4) A local authority may in any regulation made by it under subsection (1) -
- (a) adopt any model regulations made under subsection (2) or any part thereof, as its own regulations merely by reference to such model regulation; and
 - (b) amend, subject to subsection (1), such model regulations to such extent as the local authority may consider necessary or expedient for its purposes.
- (5) The Minister may, if he or she considers it advisable in the public interest -
- (a) direct in writing any town council, village council or regional council to adopt any model regulation or part thereof made under subsection (2), as may be specified by the Minister; and
 - (b) adopt, if the town council, village council or regional council fails to comply with such direction within three months, by notice in the *Gazette* such model regulations or part thereof for and on behalf of such council.
- (6) If any model regulation adopted by or for and on behalf of a local authority under subsection (4) or (5), as the case may be, are -

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- (a) repealed or substituted in whole by the Minister, such regulations remain of full force and effect as the regulations of such local authority as if such repeal or substitution had not occurred;
- (b) amended by the Minister, such amendment by the Minister is applicable to such local authority, except an amendment to a particular provision of such regulations which has been amended by the local authority under subsection (4)(b).

(7) Different regulations may be made under subsection (1) or (2) in respect of different areas within a local authority area.

(8) Regulations made in terms of subsection (1) or subsection (2) may prescribe penalties for any contravention thereof or failure to comply therewith, of a fine not exceeding N\$4000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Failure to comply with requirements

21. (1) If a person, including a local authority, fails to comply with a requirement, standard or direction prescribed, determined or issued under this Act or the regulations contemplated in section 19, the Minister may by written notice direct the person or local authority, as the case may be, to comply with the requirement, standard, direction or regulations within the period mentioned therein.

(2) If a person referred to in subsection (1) fails to give effect to a notice contemplated therein, the Minister may cause steps to be taken in order to comply with the requirement, standard, direction or regulations on behalf of the person concerned and to recover the costs in connection therewith from that person.

(3) A direction referred to in subsection (1) may not be issued before consultation with the person concerned, as the case may be.

Enforcement of provisions

22. (1) A chief fire officer may at any reasonable time enter any premises in the area of the local authority concerned in order to determine whether the provisions contemplated in section 20(1)(c), (f) or (g) are being complied with.

(2) If the chief fire officer finds that the provisions referred to in subsection (1) are not being complied with, he or she may issue to the owner of those premises or his or her authorised agent, a written instruction to comply with the provisions in question within the period mentioned therein.

(3) If an instruction contemplated in subsection (2) is not carried out within the period mentioned therein, the local authority concerned may cause the necessary steps to be taken in order to comply with the provisions in question on behalf of the owner concerned and to recover the costs in connection therewith from the owner.

(4) For the purposes of this section “owner” means the registered owner of the premises or in relation to a sectional title scheme, the body corporate established in terms of the Sectional Titles Act, 1971 (Act No. 66 of 1971).

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23. (1) A chief fire officer may -

- (a) delegate any power granted to him or her by or under this Act, the regulations contemplated in section 19 or 20, as the case may be, excluding the power to delegate or grant authority as contemplated in this section, to a member of the service concerned; and
- (b) grant authority that a duty assigned to him or her may be performed by such a member.

(2) A power delegated and a duty authorised as contemplated in subsection (1) must be exercised or performed subject to the directions of the chief fire officer, if any.

(3) A chief fire officer may at any time withdraw any delegation or authority contemplated in subsection (1).

(4) A delegation under subsection (1)(a) does not prevent the chief fire officer from exercising the power in question himself or herself.

Incorporation of standard publications

24. (1) The power conferred by sections 19 and 20 to make regulations includes the power to incorporate in regulations so made any standard publication or any part thereof by mere reference to such standard publication or part thereof, without the publication of such standard publication in the *Gazette*, and thereafter the publication is, in so far as it is not repugnant to this Act, deemed to be part of the regulations.

(2) In this section “standard publication” means any code of practice, standard specification or standard regulations published or issued by any body, organisation or authority established with the object of promoting standardisation, whether in Namibia or elsewhere, and which Namibia is authorised to apply in terms of an agreement entered into with that body, organisation or authority.

(3) Any alteration, amendment or substitution of any provision of a standard publication, whether before or after the commencement of this section, must be specifically incorporated by a local authority concerned in regulations incorporating such standard publication by reference.

(4) The Minister or a local authority council must, while any regulations incorporating any standard publication or part thereof are in force, keep copies of -

- (a) such standard publication;
- (b) any supplementary standard publication or specification or document incorporated by reference in the main standard publication which has been incorporated in the regulations; and
- (c) any amendment of the main standard publication or any supplementary standard publication or specification or document referred to in paragraph (b),

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which must be open to inspection, free of charge, at the office of the local authority council concerned during official office hours.

Offences in respect of decorations and medals

25. Any person who -
- (a) wears or uses any decoration, medal, bar, clasp, ribbon or service certificate referred to in section 6, unless he or she is the person to whom it has been awarded or bequeathed;
 - (b) without the written permission of the chief executive officer concerned, uses such decoration, medal, bar, clasp, ribbon or service certificate; or
 - (c) wears or uses anything so closely resembling any such decoration, medal, bar, clasp, ribbon or service certificate as to be calculated to deceive,

commits an offence.

False representations as to association with service

26. Any person, except a member of a service, who, without the written approval of the chief executive officer concerned, in connection with any activity carried on by him or her, takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or to convey or calculated or likely to lead other persons to believe or infer that such activity -

- (a) is carried on under or by virtue of this Act or under the patronage of a service; or
- (b) is in any manner associated or connected with a service,

commits an offence.

Offences in connection with members and membership of service

27. Any person -
- (a) not being a member of a service, who by words, conduct or demeanour, pretends that he or she is such a member; or
 - (b) who -
 - (i) persuades any member of a service to omit to carry out his or her duty or to do any act in conflict with his or her duty; or
 - (ii) is an accomplice to the commission of any act whereby any lawful order given to a member of a service or a provision of this Act, may be evaded,

commits an offence.

Wearing of uniforms, badges or buttons of service

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28. Any person who wears any uniform, distinctive badge or button of a service or anything so closely resembling any such uniform, badge or button as to be calculated to deceive, unless -

- (a) he or she is a member of a service entitled by reason of his or her appointment, rank or designation to wear such uniform, badge or button; or
- (b) he or she has been granted permission by the chief executive officer concerned to wear such uniform, badge or button,

commits an offence.

Interference with members

29. Any person who -

- (a) assaults any member of a service in the exercise, performance or carrying out of a power, function or duty;
- (b) intentionally resists or obstructs a member of a service in the exercise, performance or carrying out of a power, function or duty;
- (c) in the exercise, performance or carrying out of a power, function or duty of a member of a service, wilfully interferes with such member or his or her uniform or equipment or any part thereof; or
- (d) in order to compel any such member to do or to abstain from doing any act in respect of the exercise, performance or carrying out of a power, function or duty, or on account of such member having done or abstained from doing such an act, threatens or suggests the use of violence to, or threatens or suggests any injury to the property of such a member or of any of his or her relatives or dependants,

commits an offence.

Other offences

30. Any person who -

- (a) refuses or fails to comply with a request contemplated in section 9(4) or an order contemplated in section 16(1);
- (b) refuses or fails to carry out an instruction contemplated in section 22(2) within the period mentioned therein;
- (c) summons a service while he or she knows that there is no reason to do so;
- (d) while knowing it to be not true or not having any good reason for believing it to be true, informs a service that a fire has occurred or any other emergency has arisen that requires the attention of the service;
- (e) wilfully gives to a service any notice or any information relating to an outbreak of fire or any other emergency requiring the attendance of the service which is to his or her knowledge false or inaccurate; or

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- (f) removes any thing from the scene of a fire or other emergency without any lawful reason,

commits an offence.

Penalties

31. A person convicted of an offence for a contravention of section 25, 26, 27, 28, 29 or 30, as the case may be, is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding 2 years or to both such fine and such imprisonment.

Repeal of laws and savings

32. (1) Subject to subsections (2) and (3), the Fire Brigade Services Ordinance, 1978 (Ordinance No. 10 of 1978), and the Fire Brigade Services Amendment Act, 1988 (Act No. 18 of 1988), are hereby repealed.

(2) Any service established before the date of commencement of this Act in terms of a provision of law repealed by subsection (1) or under any other law, is deemed to have been established in terms of section 2 of this Act.

(3) Any regulation made by, for or in respect of a local authority under a provision of law repealed by subsection (1) is deemed, to the extent that it is consistent with this Act, to have been made in terms of section 20 of this Act.

Short title and commencement

33. This Act is called the Local Authorities Fire Brigade Services Act, 2006, and comes into operation on a date to be determined by the Minister.
