



## **AN BILLE SEIRBHÍSÍ DÓITEÁIN, 1981**

### **FIRE SERVICES BILL, 1981**

#### **EXPLANATORY MEMORANDUM**

The main purpose of the Bill is to update and strengthen the law in relation to the fire service, including the organisation of the service, fire fighting arrangements, fire prevention measures and the protection and rescue of persons and property.

The Bill takes account of the relevant recommendations contained in the Report on the Fire Service (Prl. 4593) which was published without Government commitment in July, 1975.

Existing law on the fire service is contained mainly in the Fire Brigades Act, 1940. This Act is being repealed and its main provisions re-enacted in the Bill, subject to suitable amendments and additions.

#### **The Bill**

—establishes fire authorities (namely county councils, county borough corporations and certain borough corporations and urban district councils),

—assigns to fire authorities all fire fighting and fire safety functions, responsibility for which was previously divided between fire brigade authorities, sanitary authorities and local authorities under various enactments,

—introduces a more comprehensive system of fire safety control of potentially dangerous buildings,

—places a general duty on persons having control over certain premises to take reasonable care to guard against the risk of fire,

—empowers the Minister to make fire safety regulations requiring precautions to be taken in certain premises,

—allows a fire authority to apply to the High Court for an order for the immediate closure of a premises in certain circumstances,

—empowers fire authorities to provide fire safety advice,

—empowers fire authorities to carry out and assist at operations of an emergency nature whether or not a risk of fire is involved,

—empowers a fire authority to advise a planning authority

- gives fire authorities much wider powers of inspection and strengthens the ancillary powers of a person in control at a fire or emergency.
- strengthens the arrangements for training of fire service personnel.
- empowers the Minister to provide training facilities and courses and to establish a Fire Service Training Council.
- specifies penalties which reflect present day money values.
- empowers the Minister to make certain financial contributions to fire authorities.

*Section 1* gives the short title of the Bill and provides that the Minister may make an order or orders bringing the provisions of the Act into operation on such day or days as he specifies.

*Section 2* is the interpretation section and defines the terms which are used throughout the Bill. The following are some of the more important definitions:

“the Minister” means the Minister for the Environment.

“building” means a building, structure or erection (whether permanent or temporary) of any kind or of any materials.

“fire brigade” means an organised body of persons trained and equipped for extinguishing fires occurring in buildings and other places and for rescuing persons and property from such fires and includes the vehicles and property with which that body is provided.

“fire safety” includes fire prevention and precautions against fire.

Other terms are defined in the sections to which they relate, including “fire authority” (*section 9*), “potentially dangerous building” (*section 19*) and “person in control” in relation to a fire or other emergency (*section 27*).

In the Bill references to extinguishing a fire are to be construed as including the prevention of a fire from spreading.

*Section 3* gives the Minister the power to make orders and regulations for the purposes specified in the Bill and provides for the laying of regulations and certain orders before each House of the Oireachtas.

*Section 4* makes it an offence to contravene, by act or omission, any requirement of the Bill or of any regulation or notice made thereunder.

*Section 5* lays down the penalties for offences under the Act namely

- on summary conviction, a fine not exceeding £500 or imprisonment for a period not exceeding six months or both fine and imprisonment.
- on conviction on indictment, a fine not exceeding £10,000 or imprisonment for a period not exceeding two years or both fine and imprisonment.

The section specifies the indictable offences, namely contravention of *section 18 (2)* (the duty of a person having control over certain

premises to take all reasonable measures to guard against an outbreak of fire and to ensure as far as is reasonably practicable the safety from fire of persons on the premises). *section 20* (failure to comply with the requirements of a fire safety notice issued by a fire authority in respect of a potentially dangerous building) and *section 37* (failure to comply with the requirements of fire safety regulations).

*Section 6* provides that summary proceedings may be brought or prosecuted by a fire authority for the area or any other person.

*Section 7* contains the usual provisions in relation to the expenses incurred by the Minister in the administration of the Bill.

*Section 8* provides for repeal of the Cinematograph Act, 1909 (now obsolete) and the Fire Brigades Act, 1940. It also provides for continuance in force of existing agreements under the Fire Brigades Act, 1940 between sanitary authorities and fire brigade authorities.

*Section 9* provides that each of the following local authorities shall be a fire authority:

1. the council of a county
2. the corporation of a county borough
3. the Corporation of Dun Laoghaire
4. the corporation of any other borough and the council of any urban district which has established and is maintaining a fire brigade at the commencement of the section (i.e. Drogheda Corporation and Dundalk and Athlone Urban District Councils).

The section also empowers the Minister to provide by order that any fire authority in category 4 above shall cease to be a fire authority.

*Section 10* places a duty on all fire authorities to make provision for the prompt and efficient extinguishing of fires and for the protection and rescue of persons and property from injury by any such fire. For this purpose a fire authority may establish and maintain a fire brigade, provide premises and make any other provision it considers necessary. In the exercise of these functions the fire authority must have regard to all relevant considerations.

The section also empowers fire authorities to make joint arrangements for the carrying out of any functions and to make agreements with a body or person other than a fire authority to provide or obtain services. These powers are additional to the existing power to make agreements under the Local Government Act, 1955. The Minister is given power by the section to direct fire authorities, after giving them an opportunity to make representations, to make an agreement under section 59 of Local Government Act, 1955 in relation to functions under this Bill and to specify terms to be included in it. A fire authority is also given power to send a fire brigade outside its functional area or outside the functional area of any fire authority.

*Section 11* transfers to fire authorities the fire safety functions exercised by local authorities and sanitary authorities under existing enactments.

*Section 12* provides that where a fire authority advises the Minister for Posts and Telegraphs that reasonable means of summoning the fire brigade are not available, he shall consult with the fire authority as to the measures needed and take such action as may be agreed.

*Section 13* empowers a fire authority to advise a planning authority

in relation to its functions concerning permission for development and permission for the retention of structures under the Local Government (Planning and Development) Act, 1963.

*Section 14* places a duty on fire authorities to assist each other on request provided that the giving of assistance does not unduly reduce the level of fire services in the functional area of the assisting authority.

*Section 15* places a duty on fire authorities to make arrangements for the efficient training of their personnel and empowers them to establish and maintain facilities for training personnel of their own and other fire services. The Minister is empowered by the section to assist with such training by providing or arranging instruction, establishing and maintaining training facilities, arranging for the conduct of examinations and the granting or recognising of awards. The Minister is also empowered, with the consent of the Minister for Finance, to contribute towards the expenses of a fire authority in providing training facilities, in sending personnel on approved courses or in making persons available to provide training.

*Section 16* empowers the Minister to establish a Fire Services Training Council to advise him on the training needs of fire authorities and other relevant matters.

*Section 17* provides for the transfer of property and staff to fire authorities from any borough corporation or urban district council which does not become a fire authority on the commencement of *section 9*. Where by order of the Minister under *section 9* a borough corporation or urban district council ceases to be a fire authority, the provisions of this section will apply subject to any modifications or ancillary provisions provided for in the order.

*Section 18* applies to premises or any part of premises used as sleeping accommodation (but excluding a dwelling house occupied as a single dwelling), as an institution providing treatment or care, for the purpose of entertainment, recreation or instruction, for the purpose of any club, society or association, for teaching, training or research or where the use involves access to the premises by members of the public or use for any other purpose specified in regulations made by the Minister.

The section places a duty on the person having control over such premises to take all reasonable measures to guard against fire on the premises and to ensure as far as is reasonably practicable the safety of persons thereon in the event of fire. Every person on such premises is required to conduct himself in such a way as to ensure as far as is reasonably practicable that as a consequence of any action or omission of his no person is exposed to danger from fire. A fire authority is empowered by the section to give fire safety advice to the owner or occupier of any premises.

The section does not apply to a factory within the meaning of the Safety in Industry Acts, 1955 and 1980, a store subject to licensing under or an oil jetty within the meaning of regulations under the Dangerous Substances Act, 1972 or a magazine, store or registered premises within the meaning of the Explosives Act, 1875, which are covered by the provisions of those Acts.

*Section 19* defines a potentially dangerous building as a building which in the event of fire occurring in it would constitute a serious danger to life for a number of specified reasons. The reasons include the fact that large numbers of persons have resort to or are accommodated in the building, the absence of any or any adequate appliances or fittings (for extinguishing, detecting and giving warning of fire, for ensuring that means of escape can be used and for emergency

Section 19 provides that every person who knowingly gives a false lighting), the flammable nature of building materials or furniture and fittings used, the absence of adequate means of escape, the absence of any or any adequate fire safety notices, the flammable, explosive or potentially explosive nature of anything stored, the fact that fire would be likely to spread rapidly and the fact that the power supply or heating system in some way constitutes a fire risk. This section excludes those premises also excluded in section 18.

Section 20 empowers a fire authority to serve a fire safety notice on the owner or occupier of a building which it considers to be a potentially dangerous building. The notice may prohibit the use of a building or a part of it for any specified purpose or prohibit the use of a building until specified precautions are taken to the satisfaction of the fire authority, including the provision of appliances and fittings, the execution of structural alterations or additions, the removal from the building of certain items or any other thing whatsoever.

Whether or not use is prohibited, a fire safety notice can impose requirements as to the provision of emergency lighting, exit signs and fire safety notices, the arrangements to be made for the maintenance of certain equipment and fittings, the power and heating systems, the arrangements for safe storage of certain materials, the measures to be taken to ensure that employees receive fire safety training, the holding of fire drills, the keeping of appropriate records, the assignment of responsibility for fire safety measures and the limiting of the number of persons in the building at any one time.

Where a fire safety notice requires the carrying out of any work to a building the owner or occupier can apply to the District Court for an order concerning the apportionment of expenses. Where a fire authority is of the opinion that certain substances of a flammable, explosive or potentially explosive nature are used, stored, or deposited adjacent to a building so as to represent a serious risk of fire, it may serve a fire safety notice requiring that certain steps be taken to reduce the risk to a reasonable level. Any fire safety notice may specify a time limit for compliance with any of its requirements.

Section 21 provides for an appeal to the District Court, within fourteen days of service, against a fire safety notice. The section sets out the grounds for appeal. The Court may confirm the notice unconditionally or subject to amendments or may annul it. The notice will take effect fourteen days after service if there is no appeal or, if an appeal is taken, from the date of the Court's decision. There will be no appeal from a decision of the District Court.

Section 22 empowers a person authorised by a fire authority (known as an "authorised person") to enter at all reasonable times and inspect land or a building (other than a dwellinghouse occupied as a single dwelling). In particular the authorised person may inspect any water supply in a building or on land, may require information from the owner or occupier or any employee, may inspect relevant records and require to be informed about any matter relating to fire safety.

An authorised person is also authorised to take with him such persons or equipment as he considers necessary, to conduct tests and examinations and to take samples for testing. The fire authority is given power to require an owner or occupier to provide it with plans or written information.

Any person who refuses entry to an authorised person, who refuses to allow him take any person or equipment with him or who obstructs or impedes him is guilty of an offence. Similarly any person who gives an authorised person false or misleading information or who refuses

to give information is also guilty of an offence. Where an authorised person is refused entry, the fire authority can apply to the District Court for a warrant authorising entry.

*Section 23* empowers a fire authority to apply to the High Court by motion for an order restricting or prohibiting the use of land or a building where it considers that its use should be immediately prohibited or restricted until specified measures are taken to reduce the risk to a reasonable level.

*Section 24* provides for the giving of suitable notification to a fire authority in respect of applications for licences in respect of premises under the Licensing Acts, 1833 to 1977, the Public Dance Halls Act, 1935, Public Health Acts Amendment Act, 1890 (Part IV) or for a certificate under the Gaming and Lotteries Acts, 1956 and 1970.

*Section 25* empowers a fire authority to carry out or assist at operations of an emergency nature whether or not a risk of fire is involved and it may make appropriate provision for carrying out this function.

*Section 26* requires that each fire authority which maintains a fire brigade must prepare and, as occasion requires, revise plans for fire and emergency operations. A copy of each plan must be furnished to the Minister who may direct that the plans of adjoining authorities be co-ordinated.

*Section 27* provides for sole charge and control of all operations for extinguishing a fire where one or more fire brigades are present or where no fire brigade is present. The Minister is empowered to make regulations for the control of any operations of a fire authority, other than those for extinguishing a fire, and for the vesting and transfer of sole charge and control of such operations in prescribed circumstances. The "person in control" is defined as the person who is vested with sole charge and control of all operations for extinguishing a fire or of any other operations of a fire authority under the section.

*Section 28* empowers the person in control to do (either personally, or by a member of the fire brigade, by a member of the Garda Síochána or by some other person authorised by him) such things as are necessary or expedient to extinguish the fire or protect or rescue persons or property and to use force if necessary. In particular he is empowered for such purposes to enter any land or building, to cause the evacuation of people, to demolish a building or part of one, to use and control any water supply, to take water from any source, to remove anything from the vicinity of an incident and to direct an extinguishing agent against any property needing protection.

The section also provides that no action shall be maintainable against a fire authority, the person in control or anybody acting under his authority and also makes it an offence to wilfully obstruct or impede the exercise of these powers by the person in control or anybody acting under his authority. Damage to property caused by the exercise of these powers is to be deemed to have been caused by the fire or emergency for any purpose including an insurance contract and any clause purporting to exclude the risk of such damage shall be void if the contract would have covered damage caused directly by the fire or emergency.

*Section 29* provides that the function of a sanitary authority in providing a supply of water includes provision of a supply for fire fighting purposes.

*Section 30* provides that every person who knowingly gives a false alarm or causes one to be given to a fire authority brigade will be guilty of an offence.

*Section 31* makes it an offence to interfere with, damage or obstruct a fire hydrant other than for an authorised purpose.

*Section 32* empowers the Minister to pay contributions towards the expenditure incurred by fire authorities in providing a fire service.

*Section 33* enables the Minister to contribute to the funds of any person or body doing fire research.

*Section 34* places a duty on fire authorities to furnish reports and statistics to the Minister.

*Section 35* makes special provision for the charging of the expenses of certain fire authorities. It also empowers any fire authority to charge the users or beneficiaries of its services.

*Section 36* provides that no action will be maintainable against the Minister, a fire authority or a sanitary authority for the recovery of damages for injury alleged to have been caused or contributed to by the exercise or failure to exercise any function under the Act.

*Section 37* gives the Minister power to make regulations for the precautions to be taken in premises listed in section 18 for the protection from fire of persons and property. The regulations can apply to a particular use of premises or any specified class of premises and in particular can specify requirements as to a number of matters. The section also provides that nothing in the regulations will derogate from the functions of a fire authority or the general duty placed on persons by *section 18*.

*Section 38* makes the usual provision for the service of notices.

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Aibreán, 1981.*

Section 30 provides that every person who knowingly gives a false statement of fact or omits to state a material fact in a statement made to a fire authority or Garda Síochána in connection with the fire authority's functions shall be guilty of an offence.

Section 31 makes it an offence to interfere with, damage or obstruct a fire authority in the exercise of its functions.

Section 32 empowers the Minister to pay contributions towards the expenses incurred by fire authorities in providing a fire service, but only to a reasonable level.

Section 33 enables the Minister to contribute to the funds of any fire authority.

Section 34 provides for the power of a fire authority in respect of premises to which it is entitled to grant a licence.

Section 35 makes special provision for the charging of the expenses of fire authorities. It also empowers the authority to charge the user of premises for the services of the fire authority.

Section 36 provides that no action shall be maintainable against a fire authority or a sanitary authority for the recovery of damages for injury alleged to have been caused or contributed to by the exercise of its functions.

Section 37 gives the Minister power to make regulations for the protection of premises from fire and property. The regulations can apply to a particular class of premises or to a number of premises.

Section 38 provides that nothing in the regulations shall derogate from the functions of a fire authority or a sanitary authority.

Section 39 provides for the power of a fire authority to take such steps as may be necessary for the purpose of extinguishing a fire or of any other operations of a fire authority.

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