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**Bihar Essential Services Maintenance Act, 1948****[07 January 1948]****CONTENTS**

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**Bihar Essential Services Maintenance Act, 1948****[07 January 1948]**

An Act to make provision for the maintenance of certain Essential Services. Whereas it is expedient to make provision for the maintenance of certain essential services; It is hereby enacted as follows- 1. LEGISLATIVE PAPERS.-For Statement of Objects and Reasons, see the Bihar Gazette, Extra-ordinary, of the 5th September, 1947; for proceedings in the Legislative Assembly, see the Bihar Legislative Assembly Debates, 1947, Vol. III No. 10, pp. 46-56; for proceedings in the Legislative Council, see the Bihar Legislative Council Debates, 1947, Vol. III, No. 3, pp. 215-18. LOCAL EXTENT.-The Act was applied to the partially excluded areas by Notification No. 554-C. dated the 15th January, 1948, see B.O.R.O., Vol. I Pt. 1.

**1. Section 1 :-**

- (1) This Act may be called the Bihar Essential Services Maintenance Act, 1948.
- (2) It extends to the whole of the [State]<sup>1</sup> of Bihar.
- (3) It shall come into force at once.
1. Substituted by Para. 4(1) of the A.L.O. for "Province".

**2. Section 2 :-**

In this Act, unless there is anything repugnant in the subject or context "employment" includes employment in the subject and whether paid or unpaid.

### **3. Section 3 :-**

This Act shall apply to any employment or class of employments under the [State]<sup>1</sup> Government which the [State]<sup>1</sup> Government being of opinion that such employment or class of employment is essential for securing the public safety, the maintenance of public order, or for maintaining services necessary to the life of the community may, by notification, declare to be an employment or class of employment to which this Act, applies.

1. Substituted by A.L.O. for "Provincial".

### **4. Section 4 :-**

Any person engaged in any employment or class of employment to which this Act, applies who-

(a) disobeys any lawful order given to him in the course of such employment; or

(b) without reasonable excuse abandons such employment or absents himself from work or abstain from working.

shall, notwithstanding anything contained in any other law or anything having the force of law, be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

Explanation 1.-Abandonment of employment or absence from duty by any person merely for fear of molestation, intimidation or assault of any person or class shall not constitute a reasonable excuse within the meaning of clause (b).

Explanation 2.-A person abandons his employment within the meaning of clause (b) who, notwithstanding that it is an express or implied term of his contract or employment that he may terminate his employment on giving notice to his employer of his intention to do, so terminate his employment without the previous consent of his employer.

### **5. Section 5 :-**

Whoever intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection towards the Government established by law amongst the persons engaged in

any employment or class of employment to which this Act, applies or induces or attempts to induce, or does any act which he knows is likely to induce, any person engaged in such employment to withhold his services, or to commit a breach of discipline having the force of law be punishable with imprisonment which may extend to three years and shall also be liable to fine.

#### **6. Section 6 :-**

(1) No Court shall take cognizance of any offence under this Act, except upon complaint in writing made by a servant of the [Government]<sup>1</sup> especially authorised in this behalf by the [State]<sup>2</sup> Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 18983, an offence under this Act, shall be cognizable.

1. Substituted by para 4(a) of the A.L.O. for "Crown".
2. Substituted by A.L.O. for "Provincial".
3. Now Code of Criminal Procedure, 1973 (No. 2 of 1974).

#### **7. Section 7 :-**

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

#### **8. Section 8 :-**

The [State]<sup>1</sup> Government may make Rules for carrying out the purposes of this Act.

1. Substituted by A.L.O. for "Provincial".