

GUJARAT ESSENTIAL SERVICES MAINTENANCE ACT, 1972

23 of 1972

[12th December, 1972]

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GUJARAT ESSENTIAL SERVICES MAINTENANCE ACT, 1972

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An Act to provide for the maintenance of certain essential services and the normal life of the community. It is hereby enacted in the Twenty-third Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

- (1) This Act may be called the Gujarat Essential Services Maintenance Act, 1972 .
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

2. Definitions :-

- (1) In this Act, unless the context otherwise requires-
 - (a) "essential service" means,-
 - (i) all employment under the State Government (including all officers and servants of the State Legislature Secretariat and of the High Court):

(ii) any other employment or class of employment connected with matters with respect to which the State Legislature has power to make laws, in respect of which the State Government is of opinion that strikes in such employment or class of employment would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies or services essential to the life of the community or would result in the infliction of grave hardship on the community, and which the State Government declares, by notification in the Official Gazette, to be an essential service for the purposes of this Act;

(b) "Strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment, and includes-

(i) refusal to work overtime where such work is necessary for the maintenance of any essential service;

(ii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (ii) of clause (a) of sub-sec. (1) shall be laid before the State Legislature immediately after it is made if it is in session, and on the first day of the commencement of the next session of the Legislature if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the reassembly of the State Legislature, as the case may be, unless before the expiration of that period a resolution approving the issue of the notification is passed by the State Legislature.

3. Power to prohibit strikes in certain employments :-

(1) If the State Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special order, prohibit strikes in any essential service specified in the Order.

(2) An Order made under sub-sec. (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the person affected by the Order.

(3) An Order made under sub-sec. (1) shall be in force for six

months only, but the State Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an Order under sub-sec. (1),-

(a) no person employed in any essential service to which the Order relates shall go or remain on strike;

(b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

4. Penalty for illegal strikes :-

Any person who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in, any such strike shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

5. Penalty for instigation etc :-

Any person who instigates, or incites, other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

6. Penalty for giving financial aid to illegal strikes :-

Any person who knowingly expends or supplies any money in furtherance or support of strike which is illegal under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

7. Sections 4, 5 or 6 in addition to disciplinary action :-

Any action taken under Section 4 , Section 5 or Section 6 shall not affect and shall be in addition to, any action of a disciplinary nature or any consequence which may ensue, and to which any person may be liable by the terms and conditions of his service or employment.

8. Power to arrest without warrant and offences to be non-bailable :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), any police officer may arrest without

warrant any person who is reasonably suspected of having committed any offence under this Act and all offences under this Act shall be non-bailable.

9. Saving :-

Nothing contained in this Act shall apply to employment in any industry ¹ [not being an industry which generates electricity for the public or supplies or distributes electricity to the public] to which the provisions of the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947 Act No. XIV of 1947) or the Industrial Disputes Act, 1947 apply.

1. Inserted by Gujarat 34 of 1980, dt. 27.11.1980.