

**MAHARASHTRA ESSENTIAL SERVICES MAINTENANCE ACT,
1994**

53 of 1994

[30th December, 1994]

CONTENTS

1. Short title, extent and duration
2. Definitions
3. Laying of notification before each House of State Legislature
4. Power to prohibit strike in certain establishments
5. Power to prohibit lock-outs in certain establishments
6. Power to prohibit lay off in certain establishments
7. Penalty for illegal strike
8. Penalty for instigation
9. Penalty for giving financial aid to illegal strike
10. Action under section 7. 8 or 9. in addition to such disciplinary action
11. Power to arrest without warrants and offences to be non bailable
12. Act to override other laws Bom IX of 1947 14 of 1947
13. Repeal of Mah. Ord. XI of 1994 and saving Mah. Ord. XI of 1994

**MAHARASHTRA ESSENTIAL SERVICES MAINTENANCE ACT,
1994**

53 of 1994

[30th December, 1994]

An Act to provide for the maintenance of certain essential services and normal life of the community; and to provide for matters connected therewith or incidental thereto. WHEREAS it was expedient to provide for maintenance of certain essential services and the normal life of the community; and to provide for matters connected therewith or incidental thereto; AND WHEREAS it was considered necessary immediately make a law to provide for the same; AND WHEREAS both Houses of the State Legislature were not in session; AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for

him to take immediate action to make a law for the purposes aforesaid; and, therefore, promulgated the Maharashtra Essential Services Maintenance Ordinance, 1994, on the 25th August 1994; AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Forty-fifth Year of the Republic of India, as follows

1. Short title, extent and duration :-

(1) This Act may be called the Maharashtra Essential Services Maintenance Act, 1994

(2) It extends to the whole of the State of Maharashtra

(3) It shall be deemed to have come into force on the 25th August 1994 and shall cease to have effect on the expiry of two years from that date except as respects things done or omitted to be done before such cesser of operation of this Act; and section 7 of the Bombay General Clauses Act, 1904 shall apply upon such cesser of operation of this Act as if it had then been repealed by a State Act

2. Definitions :-

In this Act, unless the context requires otherwise,-

(a) "essential services" means,-

(i) any transport service for the carriage of passengers or goods, by land or water, with respect to which the State Legislature has power to make laws;

(ii) any service connected with the supply of gas or milk or water or electricity; with respect to which the State Legislature has power to make laws;

(iii) any service connected with the maintenance of public health and sanitation including hospitals and dispensaries;

(iv) any public service, post and employment in connection with the affairs of the State and also persons appointed to the secretarial staff of both Houses of the State Legislature, and the officers and servants of the High Court;

(v) any service or post in connection with the affairs of the local authorities;

(vi) any other service, post, employment or class thereof, connected with matters in respect of which the State Legislature

has power to make laws and when the Government is of opinion that strike in such service, post, employment or class thereof, would prejudicially affect the public safety or the maintenance of the supplies or services essential to the life of the community or would result in the infliction of grave hardships on the community, and which the State Government by notification in the Official Gazette declares 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 of substantial retardation of work in any essential service;

(c) words and expressions used in section 5 and 6 and not defined but defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act

3. Laying of notification before each House of State Legislature :-

(1) Every notification issued under sub-clause (vi) of clause (a) of section 2 shall be laid before each House of 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 House 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 re-assembly 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 both Houses of the State Legislature

(2) Where any notification ceases to operate by or under subsection (1), the cesser shall be without prejudice to anything done or omitted to be done before such cesser.

Explanation Where the Houses of the State Legislature are summoned to reassemble on different dates, the period of forty days shall be reckoned from the later of those dates

4. Power to prohibit strike in certain establishments :-

(1) If the State Government is satisfied that in the public interest, it is necessary or expedient to do so, it may, subject to the provisions of sub-section (5), by general or special order prohibit strike in such essential service and from such date as may be specified in the order

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

(3) An order made under sub-section (1) shall be in force only for six months from the date specified therein, but the State Government may, by a like order published in like manner, and subject to the provisions of subsection (5), extend it for a 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-section (1) or sub-section (3)-

(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

(5) No order under sub-section (1) or sub-section (3) shall be made in respect of -

(a) persons appointed to the secretarial staff of the Houses of the State Legislature, except at the request of the Chairman of the Legislative Council and the Speaker of the Legislative Assembly;

(b) officers and servants of the High Court, except at the request of the Chief Justice of the High Court

5. Power to prohibit lock-outs in certain establishments :-

(1) If the State Government is satisfied that in the public interest, it is necessary or expedient to do so, it may, by general or special order, prohibit lock-outs in any establishment pertaining to any essential service specified in the order

(2) An order made under sub-section (1) shall be published in such

manner as the State Government considers best calculated to bring it to the notice of the persons affected by the order

(3) An order made under sub-section (1) shall be in force only, but the State Government may, by a like order extend it for a period not exceeding six months, if it is satisfied that in the public interest it is necessary to do

(4) Upon the issue of an order under sub-section (1) or sub-section (3)-

(a) no employer in relation to an establishment to which the order applies shall declare or commence any lock-out;

(b) any lock-out declared or commenced whether before or after the issue of the order, by any employer in relation to an establishment to which the order applies, shall be illegal

(5) Any employer in relation to an establishment who commences, continues or otherwise acts in furtherance of a lock-out which is illegal under this section, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

6. Power to prohibit lay off in certain establishments :-

(1) If the State Government is satisfied that in the public interest, it is necessary or expedient to do so, it may, by general or special order prohibit lay-off on any ground other than shortage of power or natural calamity, of any workman (other than a badli workman or a casual workman) whose name is borne on the muster roll of any establishment pertaining to any essential service specified in the order

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

(3) An order made under sub-section (1) shall in force for six months only, but the State Government may, by a like order, extend it for a 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-section (1) or sub-section (3)-

(a) no employer, in relation to an establishment to which the order

applies, shall lay-off or continue the lay-off of any workman (other than a badli workman or a casual workman) whose name is borne on the muster roll of such establishment, unless such lay-off is due to shortage of power or natural calamity and any laying off or continuation of laying off shall unless such laying off or continuation of laying off is due to shortage of power or to natural calamity, be illegal

(b) a workman whose laying off is illegal under clause (a) shall be entitled to all the benefits under any law for the time being in force as if he had not been laid-off

(5) Any employer in relation to an establishment who lays off or continues the laying off of any workman shall, if such laying off or continuation of laying off is illegal under this section, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

7. Penalty for illegal strike :-

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.

8. Penalty for instigation :-

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,

9. Penalty for giving financial aid to illegal strike :-

Any person who knowingly expends or supplies any money in furtherance or support 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.

10. Action under section 7. 8 or 9. in addition to such disciplinary action :-

Any action taken under section 7. 8 or 9 shall not effect, 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

11. Power to arrest without warrants and offences to be non bailable :-

II of 1974

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any Police Officer may arrest without a warrant any person who is reasonably suspected of having committed any offence under this Act

(2) All offences under this Act shall be non-bailable

12. Act to override other laws Bom IX of 1947 14 of 1947 :-

The provisions of this Act or any order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Bombay Industrial Relations Act, 1946, the Industrial Disputes Act, 1947 or any other law for the time being in force.

13. Repeal of Mah. Ord. XI of 1994 and saving Mah. Ord. XI of 1994 :-

(1) The Maharashtra Essential Services Maintenance Ordinance, 1994 is hereby repealed

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act