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## **East Punjab Essential Services (Maintenance) Act, 1947**

**13 of 1947**

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## **East Punjab Essential Services (Maintenance) Act, 1947**

**13 of 1947**

An Act to make provision for the maintenance of certain essential services. It is hereby enacted as follows: -

### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the East Punjab Essential Services (Maintenance) Act, 1947.
- (2) It extends to the whole of the [State] of [Punjab]
- (3) It shall come into force at once.

### NOTES

This Act empowers the State Government to declare certain employments under it to be essential for securing the public safety, maintenance of public order, health or sanitation or for maintenance of supplies essential to the life of the community and to direct that persons engaged in such employment shall not depart out of such area or areas as may be notified by the Government.

Section 3 clearly lay down the policy and an intelligent guidance is given to the State Government. It states that the State Government can only apply the Act to such employment or class of employment which the State Government considers to be essential

for securing the public safety, the maintenance of Public order or maintaining services necessary to the life of the community. It is not an unfettered or unlimited discretion to do whatever it likes to do. The Legislature declares the policy and lays down the conditions for the application of the Act to any employment or class of employment, but it gives the State Government a discretion to determine whether any of the conditions is fulfilled in respect of the particular employment or class of employment. The vesting of such a discretion is inevitable in a completely Modern society. The section does not render the Act wholly void on the ground of delegated legislation.

## **2. Interpretation :-**

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

## **3. Employment To Which This Act Applies :-**

This Act shall apply to all employment under the [State] Government, and to any employment or class of employment which the State Government being of opinion that such employment or class of employment is essential for securing the public safety, the maintenance of public order, health or sanitation or for maintaining supplies or services necessary for the life of the community, may by notification in the Official Gazette, declare to be an employment or class of employment to which this Act applies.

## **4. Power To Other Persons Engaged In Certain Employments To Remain In Specified Area :-**

(1) The [State] Government or any officer authorised in this behalf by the [State] Government may in respect of any employment or class or employment to which section 3 applies, by general or special order direct that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order.

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

## **5. Offences :-**

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

(c) departs from any area specified in an order under sub-section (1) of Section 4 without the consent of the authority making the order, and any employer of a person engaged in an employment or class of employment declared under section 3 to be an employment to which this Act applies, who without reasonable cause:-

(i) discontinues the employment of such persons, or

(ii) by closing an establishment in which such person is engaged, causes the discontinuance of his employment, is guilty of an offence under this Act.

Explanation I - The fact that a person apprehends that by continuing in his employment he will be exposed to increased physical danger is not a reasonable excuse within the meaning of clause (b).

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

## **6. Regulation Of Wages And Conditions Of Service :-**

(1) The [State] Government may make rules regulating or empowering a specified authority to regulate wages or other conditions of service of persons or of any class of persons engaged in any employment declared under section 3 to be an employment or class of employment to which this Act applies.

(2) When any rules have been made or when any directions regulating wages or conditions of service have been given by an authority empowered by such rules to give them, any person failing to comply therewith is guilty of an offence under this Act.

## **7. Penalties And Procedure :-**

(1) Any person found guilty of an offence under this Act shall on conviction by a competent criminal court be punishable with

imprisonment for a term which may extend to [three years] and shall also be liable to fine.

(2) Where the person accused of an offence under this Act is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, be liable to the punishment provided for the offence.

(3) No court shall take cognizance of an offence under this Act except upon complaint in writing made by a person authorised in this behalf by the 2[State] Government.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence under this Act shall be cognizable.

[(5) Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offence specified in sub-section (1) of Section 200 of the Criminal Procedure code, 1898, may, if such magistrate or bench of magistrates think(s) fit, on application in this behalf made by the prosecution, try any offence under this Act in accordance with the provisions contained in Sections 262 to 265 of the said Code].

## **8. Bar Of Legal Proceedings :-**

No suit, prosecution, or other legal proceedings 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.

## **9. Effect Of Orders, Rules Etc. Made Under This Act :-**

Any declaration, order, rule or regulation made and any direction given under this Act shall have effect notwithstanding anything contained in any law other than this Act.

## **10. Repeal Of Ordinance No. Viii Of 1947 :-**

The East Punjab Essential Services (Main-tenance) Ordinance, 1949, is hereby repealed.

4. Subs. by Adaptation of Laws Order, 1950.

1. East Punjab Act 37 of 1948, Section 2 (b)

2. East Punjab Act 37 of 1948, Section 2 (b)

3. East Punjab Act 37 of 1948, Section 2 (b)