

Himachal Pradesh Essential Services (Maintenance) Act, 1972

(Act No. 5 Of 1973)

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(Received the assent of the Governor on the 9th March, 1973 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 21st March, 1973, pp. 461-464).

An Act to make provisions for the maintenance of certain essential services.

Amended, repealed or otherwise affected by:-

H. P Act No. 18 of 1979 assented to by the Governor, Himachal Pradesh on 4th July, 1979, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 7th July, 1979, pp. 2018-2019, effective from 3rd March, 1979.

Himachal Pradesh Essential Services (Maintenance) Act, 1972

(Act No. 5 Of 1973)

BE it enacted by the Legislative Assembly of Himachal Pradesh 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 Himachal Pradesh Essential Services (Maintenance)

Act, 1972.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. Definitions.-

In this Act, unless there is anything repugnant in the subject or context,-

(a) "Employment" includes employment of any nature and whether paid or unpaid;

(b) "Government" or "State Government" means the Government of Himachal Pradesh.

3. Employment to which this Act applies.-

Substituted for the following section 3 vide Act No. 18 of 1979, effective from 3rd March, 1979:-

"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."

[This Act shall apply to-

(i) any employment or class of employment under the State Government which the State Government may, by notification in the Official Gazette, specify; and

(ii) any other 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 order persons engaged in certain employments to remain in specified areas.-

(1) The Government or any officer authorised in this behalf by the Government may, in respect of any employment or class of 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 abandon 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 person, 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 increase 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 such 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 any offence under this Act except upon complaint in writing made by a person authorised in this behalf by the State Government.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 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 offences specified in sub-section (1) of section 260 of the Criminal Procedure Code, 1898, may, if such magistrate or bench of magistrates think(s) fit, on application in this behalf by the prosecution, try any offence under this Act in accordance with the provisions contained in section 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 and savings.-

The East Punjab Essential Services (Maintenance) Act, 1947 (13 of 1947), as in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Provided that any order made, notification or direction issued, appointment made or action taken in exercise of the powers conferred by or under the provisions of the Act so repealed, shall, in so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued, done or taken under the corresponding provisions of this Act as if this Act was in force on the day on which such thing was done or action taken and all the provisions of this Act shall apply accordingly.