

GOVERNMENT OF GOA

Law Department

Notification

7-16-88/LA

The Goa Essential Services Maintenance Act, 1988 (Goa Act No. 20 of 1989) which has been passed by the Legislative Assembly of Goa on 6-4-1988 and assented to by the President of India on 28-11-1989, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 7th December, 1989.

The Goa Essential Services Maintenance Act, 1988

(Goa Act No. 20 of 1989) [28-11-1989]

AN

ACT

to provide for the maintenance of essential services and normal life of the community in the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Goa Essential Services Maintenance Act, 1988.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. Definitions.— (1) In this Act, unless the context otherwise requires,—

(a) “essential service” means—

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

(ii) any service connected with the production, generation, storage, transmission, supply or distribution, as the case may be, of gas, water or electricity;

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

(iv) any public service and posts in connection with the affairs of the State, and also persons appointed to the secretarial staff of the State Legislature;

(v) any other service or employment or class thereof, connected with matters to which the State Legislature of Goa has power to make laws and which the Government being of

opinion that strikes in such service, employment, or class thereof, would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the Official Gazette, declare to be an essential service for the purposes of this Act.

(b) "Government" means the Government of Goa;

(c) "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 who have been so employed to continue to work or to accept employment, and includes—

(i) failure to attend at, or absence from, the place of work on any working day or during any working hours without obtaining the necessary permission therefor of the authority competent to grant such permission;

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

(iii) 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 (v) of clause (a) of sub-section (1) shall be laid before the Legislative Assembly of Goa 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 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 Legislature.

(3) Where any notification under this section ceases to operate, the cesser shall be without prejudice to anything done or omitted to be done before such cesser.

3. Power to prohibit strikes in certain employments.— (1) If the 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-section (1) shall be published in such manner as the 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 for six months only, but the 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-section (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.

(5) Any Order made under this section may at any time be rescinded by the Government by a like Order, but such rescission shall not affect the previous operation of anything duly done or suffered thereunder, and shall not affect any obligation or liability accrued or incurred or any penalty or punishment incurred in respect of any offence committed under this Act before such rescission.

(6) No Order under sub-section (1) or sub-section (3) or sub-section (5) shall be made in respect of persons appointed to the secretarial staff of the Legislative Assembly except at the request of the Speaker of the Legislative Assembly.

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 be punishable 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 be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and any vehicle or other conveyance which is used by such person while committing such offence, shall, if having regard to all the circumstances the Court considers it just and proper so to order, be forfeited to the Government.

6. Penalty for giving financial aid to illegal strikes.— Any person who knowingly extends or supplies any money in furtherance or support of a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

7. Dismissal of employees participating in illegal strikes.— Any person,—

(a) who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in; any such strike; or

(b) who instigates or incites other persons to commence, go or remain or otherwise take part in, any such strike, shall be liable to disciplinary action (including dismissal) in accordance with the same provisions as are applicable for the purpose of taking such disciplinary action (including dismissal) on any other ground not applicable to him in relation to his employment.

8. Provisions of section 102 of Code of Criminal Procedure 1973, to apply to seizure.— The provisions of section 102 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to seizure shall, so far as may be, apply in relation to every seizure made under section 8.

9. Offences under Act to be non-bailable.— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), all offences under this Act shall be non-bailable.

10. Act to override other laws.— The provisions of this Act and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947) or in any other law for the time being in force.

Secretariat Annexe,
Panaji, Goa.
Dated: 7-12-1989.

B. S. SUBBANNA,
Secretary to the Government of Goa.
Law Department (Legal Affairs).