

[Translation in English of the Kerala Essential Services Maintenance Act, 1994, published under the authority of the Governor.]

## THE KERALA ESSENTIAL SERVICES MAINTENANCE ACT, 1994\*

(Act 6 of 1994)

*AN*

*ACT*

*to provide for the maintenance of certain essential services and the normal life of the community in the State of Kerala.*

*Preamble.*— WHEREAS it is expedient to provide for the maintenance of certain essential services and the normal life of the community in the State of Kerala;

BE it enacted in the Forty-fifth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Kerala Essential Services Maintenance Act, 1994.

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

(3) It shall be deemed to have come into force on the 24<sup>th</sup> day of September, 1993.

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

(a) “essential service” means—

(i) any service under the Government which the Government may, by notification in the Gazette, declare to be an essential service for the purposes of this Act;

(ii) any other service connected with matters with respect to which the State Legislature has power to make laws and which the Government, being of opinion that strikes therein 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 Gazette, declare to be an essential

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\* Received the assent of the Governor on the 3<sup>rd</sup> day of March, 1994 and published in the Kerala Gazette No. 10 dated 8<sup>th</sup> March 1994.

service for the purposes of this Act;

(b)“strike” means the cessation of work by a body of persons—

(A) 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 work assigned and includes —

(i) mass casual leave in pursuance of a common understanding among the persons who avail themselves of such leave or under the direction of any other person or persons;

(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;

(B) engaged in any essential service in connection with the storage, possession, transport, distribution or disposal of any article the maintenance of supplies of which is necessary for the life of the community, or any other conduct of persons as so engaged which is likely to result in cessation or substantial retardation of work in any essential service.

*Explanation.*— For the purposes of this Act, person engaged in any essential service shall also include the registered owner or any other person having possession or control of any vehicle or vessel used in connection with that essential service.

(2) Every notification issued under clause (a) of sub-section (1) shall be laid before the Legislative Assembly immediately after it is made if it is in session and on the first day of the commencement of the next session of the Legislative Assembly 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, unless, before the expiration of that period, a resolution approving the issue of the notification is passed by the Legislative Assembly.

3. *Power to prohibit strikes in essential services.*—(1) If the Government are satisfied that in the public interest it is necessary or expedient so to do, they 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 consider sufficient 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 a period of three months only, but the Government may, by a like order, extend it for any period not exceeding three months if they are 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 or engaged, as the case may be, 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 or engaged, as the case may be, 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 be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

5. *Penalty for instigation, etc.*—Any person who—

(a) instigates or incites other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Act; or

(b) knowingly expends or supplies any money in furtherance or support of any such strike,

shall be punished 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. *Offences to be cognizable and non-bailable.*—Any Police Officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Act and such person shall not be granted bail by a police officer or a Court.

7. *Offences to be tried summarily.*—All offences under this Act shall be tried in a summary way by any Judicial Magistrate of the First Class specially empowered in this behalf by the Government and the provisions of sections 262, 263, 264 and 265 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall, as far as may be, apply to such trial.

8. *Repeal and saving.*— (1) The Kerala Essential Services Maintenance Ordinance, 1993 (Ordinance No. 7 of 1993), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under

the said Ordinance shall be deemed to have been done or taken under this Act.

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