

**THE ESSENTIAL SERVICES (MAINTENANCE)
ACT, 1952**

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**THE ESSENTIAL SERVICES (MAINTENANCE)
ACT, 1952**

ACT NO. LIII OF 1952

[14th December, 1952]

An Act to provide for the maintenance of certain essential services. *

WHEREAS it is expedient to make provision for the maintenance of certain essential services;

It is hereby enacted as follows:-

Short title,
extent and
commencement

1. (1) This Act may be called the ¹[* * *] Essential Services (Maintenance) Act, 1952.

(2) [Omitted by section 2 of the Pakistan Essential Services (Maintenance) (Amendment) Act, 1958, (Act No. IX of 1958)].

(3) It shall come into force at once.

Interpretation

2. In this Act, unless there is anything repugnant in the subject or context, “employment” includes employment of any nature whether paid or unpaid, and whether in or out of Bangladesh.

Employment to
which this Act
applies

3. (1) This Act shall apply to every employment under the Government, and, subject to the provisions of sub-section (2), to any employment or class of employment which the Government may, by notification in the *official Gazette*, declare to be an employment or class of employment to which this Act applies.

* Throughout this Act, unless otherwise provided, the words “Bangladesh” and “Government” were substituted for the words “Pakistan” and “Central Government” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973) as amended by the Bangladesh Laws (Revision and Declaration) (Second Amendment) Act, 2000 (Act No. XL of 2000).

¹ The word “Pakistan” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972).

(2) No declaration under sub-section (1) shall be made in respect of any employment or class of employment unless the Government is of opinion that such employment or class of employment is essential,-

(a) for securing the defence or the security of Bangladesh or any part thereof, or

¹[(b) for the maintenance of such supplies or services which are essential to the life of the community.]

(3) A declaration under sub-section (1) shall remain in force for a period of six months which the Government may, by notification in the *official Gazette*, extend for further periods not exceeding six months at any time.

4. (1) In respect of any employment under the Government and in respect of any employment or class of employment declared under section 3 to be an employment or class of employment to which this Act applies, the Government, or an officer authorised in this behalf by that Government may, 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.

Power to order persons engaged in certain employments to remain in specified areas

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

5. (1) Any person engaged in any employment or class of employment to which this Act applies who-

Offences

(a) disobeys any lawful order given in the course of such employment, or attempts to persuade any person to disobey any such order or refuses to work, to continue to work, whether or not acting in combination with, or under a common understanding of, any other person engaged in such employment, or

(b) without reasonable excuse abandons such employment or absents himself from work, or

¹ Clause (b) was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (c) departs from any area specified in an order under subsection (1) of section 4 without the consent of the authority making that order,

and any employer of a person engaged in an employment or class of employment declared under section 3 to be an employment or class of employment to which this Act applies, who without reasonable excuse-

- (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 1.- 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 2.- 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.

(2) Whoever instigates or incites any person engaged in any employment or class of employment to which this Act applies to commit an offence under this Act, or knowingly expends or supplies any money or otherwise acts in furtherance of the commission of such an offence, shall be deemed to have committed that offence.

6. [*Regulation of wages and conditions of service.- Omitted by section 2 of the Essential Services Laws (Amendment) Act, 1974, (Act No. XXXVI of 1974).*]

Penalties and
procedure

7. (1) Any person found guilty of an offence under this Act shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to a 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 ¹[an officer] authorised in this behalf by the Government.

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

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1898,-

- (a) no Magistrate other than a Magistrate of the first class shall try an offence under this Act; and
- (b) a Magistrate trying an offence under this Act shall have power to try such offence summarily in accordance with the procedure laid down for summary trial in the said Code.

²[7A. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), or any other law for the time being in force.]

Overriding power of the Act

8. No suit, prosecution or other legal proceeding 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.

Bar on legal proceedings

¹ The words "an officer" were substituted for the words "a servant of any Government in Pakistan" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Section 7A was substituted by section 2 of the Essential Services Laws (Amendment) Act, 1974 (Act No. XXXVI of 1974).

Saving of effect of laws imposing liability to national service

9. Nothing contained in this Act or in any declaration or order made thereunder shall have effect in derogation of any provision of law which is or may be for the time being in force imposing upon a person engaged in an employment or class of employment to which this Act applies any liability to be called up for national service or to undertake employment in the national service.

Repeal of Ordinance XI of 1941 and savings

10. (1) The Essential Services (Maintenance) Ordinance, 1941, is hereby repealed.

(2) Notwithstanding such repeal, any order passed or any notification issued or anything done or any action taken or any proceedings commenced under any of the provisions of the aforesaid Ordinance, in so far as such provisions were in force immediately before the commencement of this Act, shall continue in force and be deemed to have been passed, issued, done, taken or commenced, as the case may be, under the corresponding provision of this Act, as if this Act had been in force on the day on which such order was passed, notification issued, thing done, action taken or proceedings commenced.
