

The Mizoram Essential Services Maintenance Act, 1990

MIZORAM

India

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Act 15 of 1990

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The Mizoram Essential Services Maintenance Act, 1990 Mizoram Act No. 15 of 1990 Last Updated 18th February, 2020 (Received the assent of the Governor of Mizoram on the 27th August, 1990) No. F-13013/1-90-LJD, the 27th August 1990. - The following Act of the Mizoram Legislative Assembly which received the assent of the Governor is hereby published for general information. An Act to provide for the maintenance of certain essential services and normal life of the community ; Be it enacted by the Legislature of the State of Mizoram in the Forty-first year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Mizoram Essential Services Maintenance Act, 1990. (2) It shall extend to the whole of the State of Mizoram. (3) It shall come into force at once.

2. Definitions.

- 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 has power to make laws; (ii) any service (excluding service in any establishment or undertaking owned or controlled by the Central Government) connected with the production, generation, storage, transmission supply or distribution, as the case may be, of gas, water or electricity; (iii) any service under the State Government in connection with the maintenance of hospitals and dispensaries, public health, sanitation and public conservancy; (iv) any service (excluding service in any establishment of or undertaking owned or controlled by the Central Government with the purchase, procurement, storage, supply distribution or carriage of food-grains; (v) any service under the State Government in, printing press; (vi) any service under the State Government, found an Essential Service, including the Service in the Secretariat of the State

Legislature;(vii)any other service not specified in the foregoing clauses but being a service connected with matters with respect to which the State Legislature has power to make laws and which the State Government, being of the opinion that strike therein would prejudicially affect the maintenance of public safety or services necessary for the normal life of the community or would result in the infliction of grave hardship on the life of the community, may by notification in the Official Gazette, declare to be an essential service for the purpose of this Act.(b)"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 have been so employed to continue to work or to accept employment and includes-(i)refusal to work overtime where such work is necessary for the maintenance of any Essential Service;(ii)any other conduct which is likely to result in or results in cessation or substantial retardation of works in any Essential Service;(iii)showing token strikes and taking of leaves or absent from the place of duty owing to refusal of work to which he is ordinarily employed in any of such Essential Service.(c)"State Government" means the Government of the State of Mizoram; and(d)"State Legislature" means the Legislature of the State of Mizoram.

3. Power to prohibit strike in certain employments.

(1)If the State Government is satisfied that in 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 State 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 a period of six months only, but the State Government may, by a like Order published in like manner extend it for any period, not exceeding six months, if it is satisfied that in the public interest it is necessary or expedient to do so.(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 State Government by a like Order, but such rescission shall not affect the previous operation of any thing 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.

4. Penalty for illegal strikes, instigation and for giving financial aid.

- Any person who commences strike which is illegal under this Act, or goes or remains on, or otherwise takes part in, any such strike, or instigates or incites other persons, to take part in, or otherwise acts in furtherance of a strike, or knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Act shall be punished with imprisonment for a term which may extend up to one year or with fine which may extend to two thousand rupees, or with both.

5. Cognizable and non-bailable offence.

- The offence under this Act shall be cognizable and non-bailable and any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Act.

6. Dismissal of employed participating in illegal strikes.

(1) 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, or instigates or incites other persons to take part or knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Act, shall in addition to any action under Section 4 be liable to disciplinary action including dismissal in accordance with the same provision as are applicable for the purpose of taking such disciplinary action on any other ground under the terms and conditions of service applicable to him in relation to his employment. (2) Notwithstanding anything contained in any other law, rule, regulation or order the disciplinary authority may use the material or finding of a Court trying an offence under this Act and on the basis of the said findings and judgement of the said Court, may award any punishment including dismissal on the person under the terms and conditions of service applicable to him in relation to his employment.

7. 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.

8. Repeal and saving.

(1) The Mizoram Essential Services Maintenance Ordinance, 1990 is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under this Act.