

# Haryana Essential Services Maintenance Act, 1974

HARYANA

India

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### Act 40 of 1974

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Haryana Essential Services Maintenance Act, 1974 Haryana Act No. 40 of 1974 Statements of Objects and Reasons - Haryana Act 40 of 1974 - In the erstwhile State of Punjab a measure known as the East Punjab Essential Services (Maintenance) Act, 1947, was enacted which provides for the maintenance of certain essential Services. It was now been deemed expedient to re-enact the measure in its application to the State of Haryana. Published vide Haryana Government Gazette (Extraordinary) dated 22nd November 1974 page 1636. Statements of Objects and Reasons - Haryana Act 12 of 1981 - The Governor of Haryana promulgated the Haryana Essential Services Maintenance (Amendment) Ordinance, 1981 which empowered the Government effectively tackle the emergent situations arising out of threats of (sic) work-to-rule, etc., in the employments to which the provisions of the Haryana Essential Services Maintenance Act, 1974 apply. This Bill seeks to replace the aforesaid Ordinance. Published vide Haryana Government Gazette (Extraordinary) dated 10th March 1981. Received the assent of the Governor of Haryana on the 13th December, 1974 and is published in the Haryana Government Gazette (Extraordinary) of December 16, Legislative Supplement Part I Page 565 to 567. An Act to provide for the maintenance of essential services in the State of Haryana and for matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Haryana in the Twenty fifth Year of the Republic of India as follows :-

### 1. Short title and extent.

(1) This Act may be called the Haryana Essential Services Maintenance Act, 1974. (2) It extends to the whole of the State of Haryana.

### 2. Definitions.

- In this Act, unless the context otherwise requires - "(a) "employment" includes employment of any nature whether paid or unpaid. (b) "Government" means the Government of the State of Haryana; (c) "prescribed" means prescribed by rules made under this Act. (d) [Strike "means the cessation of work by a body of persons employed in any employment to which this act applies 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 - [Clause (d) inserted by Haryana Act No. 12 of 1981.](i)Mass casual leave in pursuance of a common understanding among the persons who avail themselves of such leaves or under the direction of an other persons or persons;(ii)Refusal to work overtime where such work is necessary for the maintenance of work in any employment to which this act applies; or(iii)Any other conduct which is likely to result in, or results, in cessation or substantial retardation of work in any employment to which this act applies]

### **3. Employment to which Act applies.**

- This Act shall apply -(i)to all employment under the Government;(ii)to any other employment or class of employment which the Government being of the 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, declare.

### **4. Power to order persons engaged in certain employment to remain in specified areas.**

(1)The Government or an officer authorised by it in this behalf, may, in respect of any employment or class of employment to which section 3 applies, by general or special order, direct that any persons 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 the sub-section (1) shall be published in such manner as the Government or the officer making the order considers fit to bring it to the notice of the persons affected thereby.[4A. Power to Prohibit Strike. - (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 employment or class of employment to which this act applies;(2)An order made under section (1) shall be published in such manner as the Government considers sufficient to bring it to the notice of the persons affected by the order and shall remain in force for a period of six months;Provided that 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.(3)Upon the issue of the order under sub-section (1) -(a)no person employed in any employment or class of employment to which this act applies and to whom the order relates shall go or remain on strike; and(b)any strike declared or commenced, whether before or after the issue of the order, by persons employed in any such employment, shall be legal.]

### **5. Offences.**

(1)Any person engaged in any employment or class of employment to which the Act applies, who -(a)disobeys any lawful order given to him in the course of such employment;(b)without reasonable excuse abandons such employment or absents himself from work;(c)depart from any area specified in an order made under sub-section (1) of section 4 without the consent of the authority making the

order;(d)[ himself takes part in, instigates, or incites other persons to take part in, or otherwise acts in furtherance of, any illegal strike; or [Clasues (d) and (e) added by Haryana Act No. 12 of 1981.](e)knowingly expends or supplies any money in furtherance or support of any illegal strike;]shall be 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 get his employment terminated on giving notice to his employer of his intention to do so, abandons his employment without the previous consent of his employer.(2)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 -(a)discontinues the employment of such person; or(b)by closing an establishment in which such person is engaged causes the discontinuance of his employment;shall be guilty of an offence under this Act.

## **6. Regulation of wages and conditions of service.**

(1)The Government may make rules regulating or empowering a specified authority to regulate wages and other conditions of service of persons or any class of persons engaged in any employment or class of employment declared as much under section 3.(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 such directions, any person failing to comply with them shall be 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, be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.(2)Where an offence under this Act has been committed by a company, every person incharge of, or responsible to, the company for the conduct of its business at the time of the commission of the offence shall be liable to be proceeded against and punished accordingly;Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(3)Notwithstanding anything contained in sub-section (2), whereas offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, a director, manager, secretary or other officer or the company, such director, manager, secretary or other officer shall also be proceeded against and punished accordingly.Explanation. - For the purposes of this section, -(a)"company" means any body corporate, and includes a firm or other association of individuals; and(b)"director" in relation to a firm means a partner in the firm.(4)[ The offences under this Act shall be cognizable and non-bailable.] [Sub-section (4) substituted by Haryana Act No. 12 of 1981.](5)Any magistrate or bench of magistrates empowered for the time being to try in a summary manner the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1973, may, if such

magistrate or bench of magistrates think(s) fit, on an application made in this behalf by the complainant, try any offence under this Act in accordance with the provisions contained in sections 262 to 265 of the said Code.

## **8. Indemnity.**

- 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. Over-riding effect of orders, rules, etc. made under the Act.**

- Any declaration, order, rule or regulation made and any direction given under this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

## **10. Repeal.**

- The East Punjab Essential Services (Maintenance) Act, 1947, (East Punjab Act, 13 of 1947), in its application to the State of Haryana, is hereby repealed.[Section 4-A inserted by Haryana Act No. 12 of 1981.]