

The Orissa Essential Services (Maintenance) Act, 1988

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Act 9 of 1992

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The Orissa Essential Services (Maintenance) Act, 1988 Orissa Act No. 9 of 1992 Published vide Orissa Gazette Extraordinary No. 107/4.1.1992-Notification No. 1706-Legislative/3.2.1992. An Act to provide for the maintenance of certain essential service and the normal life of the community in Orissa Be it enacted by the Legislature of the State of Orissa 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 Orissa Essential Services (Maintenance) Act, 1988. (2) It shall extend to the whole of the State of Orissa. (3) It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires- (a) "essential service" means - (i) any service connected with the supply or distribution of water and with the maintenance of water-works; (ii) any service connected with the maintenance of public health and sanitation, including hospitals and dispensaries; (iii) any service connected with the production, supply or distribution of electricity including any service under the Orissa State Electricity Board constituted under the Electricity (Supply) Act, 54 of 1948; (iv) any service connected with transportation of persons/goods; (b) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerned refusal or a refusal under a common understanding of any number of persons who are or have been so employed, to work or to accept employment and includes - (i) unauthorised absence from duty in pursuance of a common understanding among the persons who unauthorisedly absent themselves from duty 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.

3. Power to prohibit strike in certain employments.

(1) If the State 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 external 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 six months only, but the State 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 ; and (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.

4. Power to prohibit lock-outs in certain establishments.

(1) If the State Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special order, prohibit lockouts in any establishment pertaining to 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 six months only, but the State 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 so to do. (4) Upon the issue of an order under Sub-section (1)-(a) no employer in relation to an establishment to which the order applies shall commence any lock-out; (b) any lock-out declared or commenced whether before or after the issue of the order by any employer in relation to an establishment to which the order applies shall be illegal. (5) Any employer in relation to an establishment who commences, continues or otherwise acts in furtherance of a lock-out which is illegal under this section, shall be punishable with imprisonment or a term which may extend to six month's, or with fine which may extend to one thousand rupees, or with both.

5. Power to prohibit lay-off in certain establishment.

(1) If the State Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special order, prohibit lay-off, on any ground other than shortage of power or natural calamity, of any workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of any establishment pertain to 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 six months only, but the State Government may, by 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 employer in relation to an establishment to which the order applies shall

lay-off of or continue the lay-off of any workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of such establishment unless such lay-off is due to shortage of power or to natural calamity and any laying-off or continuation of laying-off shall, unless such laying-off or continuation of laying-off is due to shortage of power or to natural calamity, be illegal; (b) a workman whose laying-off is illegal under Clause (a) shall be entitled to all the benefits under any law for the time being in force as if he had not been laid-off. (5) Any employer in relation to an establishment who lays-off or continues the laying-off of any workman shall, if such laying-off or continuation of laying-off is illegal under this section, be punishable 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. 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 five hundred rupees, or with both.

7. Penalty for instigation etc.

- Any person who instigates or incites other persons to take part in, or otherwise acts in furtherance of, or does any act preparatory to, 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.

8. Power to arrest without warrant.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any police officer not below the rank of Sub-Inspector of Police may arrest without warrant any person who is reasonably suspected of having committed any such offence.

9. 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, 14 of 1947, or in any other law for the time being in force.