

# The Bihar Essential Services Maintenance Act, 1948

BIHAR

India

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### Rule

## THE-BIHAR-ESSENTIAL-SERVICES-MAINTENANCE-ACT-1948 of 1948

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The Bihar Essential Services Maintenance Act, 1948[Governor-General's assent published in the Bihar Gazette, Extra-ordinary of the 7th January, 1948].An Act to make provision 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-

### 1.

(1)This Act may be called the Bihar Essential Services Maintenance Act, 1948.(2)It extends to the whole of the [State] [Substituted by Para. 4(1) of the A.L.O. for 'Province'.] of Bihar.(3)It shall come into force at once.

### 2.

In this Act, unless there is anything repugnant in the subject or context "employment" includes employment in the subject and whether paid or unpaid.

### 3.

This Act shall apply to any employment or class of employments under the [State] [Substituted by A.L.O. for 'Provincial'] Government which the [State] [Substituted by A.L.O. for 'Provincial'] Government being of opinion that such employment or class of employment is essential for securing the public safety, the maintenance of public order, or for maintaining services necessary to the life of the community may, by notification, declare to be an employment or class of employment to which this Act, applies.

**4.**

Any person engaged in any employment or class of employment to which this Act, applies who-(a)disobeys any lawful order given to him in the course of such employment; or(b)without reasonable excuse abandons such employment or absents himself from work or abstain from working.shall, notwithstanding anything contained in any other law or anything having the force of law, be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.Explanation 1. - Abandonment of employment or absence from duty by any person merely for fear of molestation, intimidation or assault of any person or class shall not constitute 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 or employment that he may terminate his employment on giving notice to his employer of his intention to do, so terminate his employment without the previous consent of his employer.

**5.**

Whoever intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection towards the Government established by law amongst the persons engaged in any employment or class of employment to which this Act, applies or induces or attempts to induce, or does any act which he knows is likely to induce, any person engaged in such employment to withhold his services, or to commit a breach of discipline having the force of law be punishable with imprisonment which may extend to three years and shall also be liable to fine.

**6.**

(1)No Court shall take cognizance of any offence under this Act, except upon complaint in writing made by a servant of the [Government] [Substituted by para 4(a) of the A.L.O. for 'Crown'.] especially authorised in this behalf by the [State] [Substituted by A.L.O. for 'Provincial'.] Government.(2)Notwithstanding anything contained in the [Code of Criminal Procedure, 1898] [Now Code of Criminal Procedure, 1973 (No. 2 of 1974).], an offence under this Act, shall be cognizable.

**7.**

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.

**8.**

The [State] [Substituted by A.L.O. for 'Provincial'.] Government may make Rules for carrying out the purposes of this Act.NotificationsS.O. 1354, dated 4th October, 1977, published in Bihar Gazette, Extraordinary, dated October 4, 1977. - Whereas the Governor of Bihar is of opinion that the

employments under the State Government mentioned below are essential for securing the public safety, the maintenance of public order and for maintaining-services necessary to the life of the community; Now, therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948) and in supersession of the Government of Bihar, Home Department (Special Section) Notification Nos. 1821, dated 9th June, 1974 and 771, dated 29th June, 1975, the Governor of Bihar is pleased to declare the following employments to be employments to which the said Act, shall apply with immediate effect:-

## 1. Bihar State Medical Services;

## 2. House Surgeons;

## 3. Internees; and

## 4. All class III and IV employees belonging to Medical and Public Health Services.

S.O. 1356, dated 4th October, 1977, published in Bihar Gazette, Extraordinary, dated October 4, 1977. - In exercise of the powers conferred by sub-section (i) of Section 6 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act I of 1948), the Governor of Bihar is pleased to authorise the officers specified in column I of the Schedule hereto annexed to make complaints in respect of any offences under the said Act committed by the Government Officers as also all class III and IV employees belonging to Medical Services as noted in column II thereof.

## Schedule

1	2
(1) Health Commissioner	Bihar State Medical Services House
(2) Joint Director, Medical Education	Surgeons. Internees. All Class III and IV
(3) Joint Director, Medical Education	employees to Medical Department
(4) Director of Health Services	

S.O. 1393, dated 15th October, 1977, published in Bihar Gazette, Extraordinary, dated October 15, 1977. - In partial modification of Home Department (Special Section) Notification No. 2920, dated the 17th September, 1977 and in exercise of powers conferred by sub-section (1) of Section 6 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), the Governor of Bihar is pleased to authorise the following officers in addition to the officer specified in serial No. 4 of column 1 of the Schedule annexed to the said notification to make complaints in respect of any offence under the said Act committed by all Classes III and IV employees belonging to medical service as noted in serial No. 4 of column 2 thereof, namely:- (1) All Civil Surgeons-cum-Chief Medical Officers. (2) Superintendents of all Hospitals. (3) Chairman, Hospitals Administrative Board, Patna Medical College Hospital. (4) Principals of all Medical Colleges and Dental College. (5) Director, all T.B. Centres and Public Health Institutes. (6) Chief Malaria Officer, Bihar. (7) Deputy Director, Health Services (Small-Pox), Bihar. (8) Assistant Director, Health Services (Fileria). (9) Deputy

Superintendents of all Sub-Divisional Hospitals.(10)Health Officer Incharge of all Primary Health Centres.S.O. 1678, dated 8th December, 1979, published in Bihar Gazette, Extraordinary No. 1048, dated December 8, 1979. - In exercise of the powers conferred by sub-section (1) of Section 6 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), and in continuation of the Government of Bihar, Home (Special) Department Notification No. S.O. 52, dated the 21st January, 1960, the Governor of Bihar is pleased to authorise the officers mentioned in column 1 of the Schedule annexed hereto to make complaints in respect of any offence under the said Act committed by the employees noted in column 2 of the said Schedule.

## Schedule 2

Column 1	Column 2
Sub-Inspector of Police or Inspector of Police or Deputy Superintendent of Police or Assistant Superintendent of Police.	All categories of employees of Indian Oil Corporation Ltd. in this State engaged in production, transportation, marketing and distribution of petroleum or petroleum products working under the jurisdiction of the Police Officers mentioned in column 1.
<p>S.O. 1686, dated 11th December, 1979, published in Bihar Gazette, Extraordinary No. 1055, dated December 11, 1979. - Whereas, the Governor of Bihar is of opinion that all employments of Indian Oil Corporation Ltd. in this State engaged in the manufacture, transportation, marketing and distribution of Petroleum and Petroleum products in this State are essential for securing the public safety and for maintaining services necessary to the life of the community. Now, therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), the Governor of Bihar is pleased to declare all employments and services of Indian Oil Corporation Ltd. engaged in manufacture, transportation, marketing and distribution of Petroleum and Petroleum products in this State to be an employment to which the said Act applies. S.O. 1761, dated 21st November 1981, published in Bihar Gazette Extraordinary No. 1166, dated November 21, 1981. - In exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), as amended by the Bihar Essential Services Maintenance (Amendment) Ordinance 1979, the Governor of Bihar, being of opinion that the class of employment mentioned below is essential for maintaining services necessary to the life of the community, is hereby pleased to declare the said class of employment to be the class of employment to which the said Act applies. (1) Bihar State Forest Service posted in the Sanjay Gandhi Biological Park, Patna. (2) Range Officers of Forests posted in the Sanjay Gandhi Biological Park, Patna. (3) All Class III and IV employees belonging to the establishment of the Sanjay Gandhi Biological Park, Patna. (4) All casual labourers employed in the Sanjay Gandhi Biological Park, Patna. S.O. 721, dated 5th June, 1984 - Published in Bihar Gazette Extraordinary No. 314, dated June 5, 1984. - Whereas the State Government is satisfied that it is expedient, in public interest to prohibit strikes in any establishment or undertaking dealing with the production, supply or distribution of power in the State of Bihar; Now, therefore, the State Government, in exercise of the powers conferred by Section 3(1) of the Essential Services Maintenance Act, 1981 (No. 40 of 1981) read with Notification No. 7(E), dated the 6th January, 1983 of the Ministry of Home Affairs, Government of India, prohibit strike in all establishments or undertakings dealing with production, supply or distribution of power in the State of Bihar. S.O. 220, dated 20th February, 1985, published in Bihar Gazette Extraordinary</p>	

No. 123, dated 20-2-85. - In exercise of the powers conferred by sub-section (1) of Section 6 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), the Governor of Bihar is pleased to authorise the officers mentioned in column 1 of the Schedule hereto annexed to make complaints in respect of any offences under the said Act committed by Government Officers belonging to Bihar Administrative Services as noted in column 2 thereof:-

### Schedule 3

#### Column 1

All Secretaries/Special Secretaries to the Government Departments and all Divisional Commissioners/all District Magistrates.

#### Column 2

All Government Officers belonging to Bihar Administrative Services working under the respective jurisdiction of the Officers mentioned in column 1.

S.O. 222 dated 20th February, 1985 published in Bihar Gazette Extraordinary No. 124, dated 20-2-85. - Whereas the Governor of Bihar is of the opinion that all employments of the Members of the Bihar Administrative Services under the different Departments of the State Government as well as, any Board, Corporation and Local Authority constituted by the State Government are essential for securing public safety, maintenance of public order and for maintaining services essential to the life of the community; Now, therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), the Governor of Bihar is pleased to declare all employments of the Members of the Bihar Administrative Services under the different Departments of the State Government as well as the Boards, Corporations and Local Authorities constituted by the State Government to be an "employment" to which the said Act applies. S.O. 662, dated 17th May, 1986 Published in Bihar Gazette Extraordinary No. 267, dated May 17, 1986. - Whereas the Government of Bihar is of the opinion that all employments and services of Electric Equipment Factory, Tantisilway, Ranchi, under Bihar State Industrial Development Corporation Ltd. are essential for security, public safety, maintenance of public order and for maintaining services essential to the life of the community. Therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), the Governor of Bihar is pleased to declare all employments and services of Electric Equipment Factory Tantisilway, Ranchi, under Bihar State Industrial Development Corporation to be such Employment and services to which the said Act applies. S.O. 728, dated 10th June, 1986 Published in Bihar Gazette Extraordinary No. 303 dated June 10, 1986. - Whereas, the State Government is satisfied that it is expedient, in public interest to prohibit strikes in any establishment or undertaking dealing with the production, supply or distribution of power in the State of Bihar; Now, therefore, the State Government, in exercise of the powers conferred by Section 3(1) of the Essential Services Maintenance Act, 1981 (40 of 1981) read with Notification No. S.O. 7(E), dated the 6th January, 1983 of the Ministry of Home Affairs, Government of India, prohibit strike in all establishments or undertakings dealing with production, supply or distribution of power in the State of Bihar. S.O. 796 dated 11.12.1991 [Published in Bihar Gazette (Extraordinary) dated 11.12.1991]. - In exercise of the powers conferred by sub-section (1) of Section 6 of the Bihar Essential Services Maintenance Act, 1947 (Bihar Act 1 of 1948), the Governor of Bihar is pleased to authorise the officers specified in column (1) of the Schedule hereto annexed to make complaints in respect of any offences under the said Act committed by the officers and also class III and IV employees belonging to Governor's

Secretariat and deputed for house-hold services of Rajbhawan, Patna.

## Schedule 4

### Column 1

(1) Secretary to Governor.(2) Joint Secretary to Governor.(3) Deputy Secretary to Governor.

### Column 2

All officers, IIIrd and IVth grade employees of Governor's Secretariat and employees deputed for house-hold services of Rajbhawan.

S.O. 4 dated the 16th January, 1992 [Published in Bihar Gazette dated 21.1.1992]. - Whereas the Governor of Bihar is of the opinion that all employment and services under the Bihar State Co-operative Milk Producer's Federation Ltd. and its attached units/unions are essential for securing public safety and for maintaining public services necessary for the life of the community. Now, therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance (Amendment) Act, 1981 (Bihar Act 22, 1982) The Governor of Bihar is pleased to declare all employments and services under the Bihar State Co-operative Producer's Federation Ltd. and all its attached units/ unions, to be an employment to which the said Act, applies for a period of 6 (six) months from the date of issue of this notification. S.O. 221, dated 21st June, 1993 [Published in Bihar Gazette (Extra-ordinary), dated 21.6.1993]. - Whereas the Governor of Bihar is of the opinion that all employment and services under the Patna Municipal Corporation, Patna and its attached Offices/Organisations are essential for securing Public Safety and for maintaining public services necessary for the life of the community. Now, therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance (Amendment) Act, 1981 (Bihar Act 22, 1982), the Governor of Bihar is pleased to declare all employments and services under the Patna Municipal Corporation, Patna and its attached offices/organisations to be an employment which the said Act applies for a period extending upto six months from the date of issue of this notification. S.O. 420, dated the 4th October, 1993. Published in Bihar Gazette (Extra-ordinary) dated 4.10.1993. - Whereas the Governor of Bihar is of the opinion that all employment and services under the Bihar State Electricity Board and its attached Units/Unions are essential for securing public safety and for maintaining public services necessary for the life of the community; Now, therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance (Amendment Act, 1981) (Bihar Act 22, 1982), the Governor of Bihar of Bihar is pleased to declare all employments and services under the Bihar State Electricity Board, Patna and all its attached Units/Unions to be an employment to which the said Act applies for a period of 6 (six) months from the date of issue of this notification. S.O. 457, dated 19th October, 1993 [Published in Bihar Gazette (Extra-ordinary) dated 19.10.1993]. - Whereas the Governor of Bihar is of the opinion that all employment and services under the Mines Area Development Authority, Dhanbad and its attached Units/Unions are essential for securing public safety and for maintaining public services necessary for the life of the community. Now, therefore, in exercise of the powers conferred by Section 3 of the Bihar Essential Services Maintenance (Amendment Act, 1981) (Bihar Act 22, 1982), the Governor of Bihar is pleased to declare all employments and services under the Mines Area Development Authority, Dhanbad and all its attached Units/Unions to be an employment to which the said Act applied for a period of (six) months from the date of issue of this notification. S.O. 1382 f n u k a d 21-5-2003-& io { k s o f o o i z k o d s l a d Y i l a o 10 @ 03 f n u k a d 22-2-03 , o a d k ; k Z o y h d s d z e i z k o l a o & t s o v o 1 @ 03 d s v u q l k j 15 e h V j l s T ; k n k m a p k b Z ; k 500 o x Z e h o l s v f / k d d s { k s = Q y o k y s

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