

CHAPTER 52

ESSENTIAL PUBLIC SERVICES

Act
No. 61 of 1979.

AN ACT TO PROVIDE FOR THE DECLARATION OF SERVICES PROVIDED BY CERTAIN GOVERNMENT DEPARTMENTS, PUBLIC CORPORATIONS, LOCAL AUTHORITIES AND CO-OPERATIVE SOCIETIES AS ESSENTIAL PUBLIC SERVICES ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[8th October, 1979.]

Short title.

1. This Act may be cited as the Essential Public Services Act.

President may declare services provided by certain Government departments, public corporations, local authorities or co-operative societies to be essential public services.

2. (1) Where the President is of the opinion that—

- (a) any service provided by any category of persons employed in any Government department or public corporation or local authority or co-operative society or branch thereof being a department or corporation or local authority or co-operative society which is engaged in the provision of any of the services specified in the Schedule to this Act, is likely to be impeded or interrupted ; and
- (b) the maintenance of the service provided by that category of persons is essential to the life of the community,

he may, in consultation with the appropriate Minister and by Order published in the Gazette, declare that service to be an essential public service.

(2) During the continuance in force of an Order made under subsection (1) declaring the service provided by any category of persons employed in a Government department or public corporation or local authority or co-operative society or branch thereof being a department or public corporation or local authority or co-operative society engaged in the provision of any of the services specified in the Schedule to this Act, to be an essential public service—

- (a) any person who, on the day immediately preceding the date of such Order, was employed in that department or public corporation or local authority or co-operative society for the purposes of that service or who after that date is employed by that department or public corporation or local authority or co-operative society for the purposes of that service, fails or refuses to attend at his place of work or at such other place as may from time to time be designated by the head of that department or public corporation or local authority or co-operative society or a person acting under the authority of such head or fails or refuses to perform such work as he may be directed by the head of the department or public corporation or local authority or co-operative society or by a person acting under the authority of such head to perform or fails or refuses to perform such work within such time as is in the opinion of the head of that department or public corporation or local authority or co-operative society reasonable for the performance of such work, or
- (b) any person who in any manner—
 - (i) impedes, obstructs, delays or restricts the carrying on of that service; or
 - (ii) impedes, obstructs or prevents any other person employed in that department or public

corporation or local authority or co-operative society for the purposes of that service from attending at his place of work; or

(iii) incites, induces or encourages any other person employed in that department or public corporation or local authority or co-operative society for the purposes of that service to refrain from attending at his place of work; or

(iv) compels, incites, induces or encourages any other person employed in that department or public corporation or local authority or co-operative society for the purposes of that service to depart from his place of work; or

(v) prevents any other person from accepting employment in, or in connection with, the carrying on of that service; or

(c) any person who, by any physical act or by any speech or writing incites, induces or encourages any other person to commit any act specified in paragraph (b) of this subsection (whether or not such other person commits in consequence any act so specified),

shall be guilty of an offence under this Act.

Operation, &C., of Order made under section 2 (1).

3. (1) Every Order made under subsection (1) of section 2 shall come into operation on the date of its publication in the Gazette and shall, subject to the succeeding provisions of this section, be in operation for a period of one month from such date, without prejudice however, to the earlier revocation of that Order or to the making of a further Order at or before the end of that period.

(2) Upon the publication in the Gazette of an Order made under subsection (1) of section 2, such Order shall be placed forthwith before Parliament and where Parliament is on the date of publication of

that Order in the Gazette separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days from the date of publication of such Order and Parliament shall accordingly meet and sit upon the day appointed by that Proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to that day.

(3) Every Order made under subsection (1) of section 2 shall expire after a period of fourteen days after the publication of such Order in the Gazette, unless such Order is approved by a resolution of Parliament;

Provided that if Parliament is on the date of publication of such Order in the Gazette separated by any such adjournment or prorogation as is referred to in subsection (2), then such Order shall expire at the end of a period of ten days from the date on which Parliament shall meet and sit, unless approved by a resolution of Parliament at such meeting.

4. (1) Every person who commits an Offences. offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to rigorous imprisonment for a term not less than two years and not exceeding five years or to a fine not less than two thousand rupees and not exceeding five thousand rupees or to both such imprisonment and fine.

(2)*Where a person is convicted by any court for an offence under this Act, the court may, in addition to any other penalty that it imposes under subsection (1), make one or both of the following orders :—

(a) that all property, movable or immovable, of the person convicted shall be forfeited to the Republic;

(b) in any case where the person convicted is registered in any register maintained under any written law as entitling such person to practise any profession or vocation, that the name of such person be removed from; such register,

if the court is of opinion that there are sufficient grounds for the making of any such order.

(3) Where the court makes order under paragraph (a) of subsection (2) in respect of any person, every alienation or disposal of property made by such person after the date of publication of an Order under subsection (1) of section 2 in relation to any service provided by such person, shall be deemed to have been, and to be, null and void.

Application of section 15 (2) of Code of Criminal Procedure Act.

5. Subsection (2) of section 15 of the Code of Criminal Procedure Act shall not apply to any person convicted of an offence under this Act.

Actor omission committed or omitted to be done in furtherance of a strike not a defence in any prosecution under this Act.

6. Where any person is prosecuted for an offence under this Act, it shall not be a defence for him to prove that any act or omission constituting the offence was done or omitted to be done by him in furtherance of a strike commenced by a trade union to which such person belongs.

This Act to prevail over other written law.

7. The provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

Interpretation.

8. In this Act—

"co-operative society" means any society registered or deemed to be registered under the Co-operative Societies Law;

"head"—

(a) in relation to a co-operative society, means the President of that co-operative society;

(b) in relation to a local authority, means the Mayor or Chairman of that local authority or the Special Commissioner appointed to administer the affairs of that local authority; and

(c) in relation to a public corporation, means the Chairman of the Board of Directors of such corporation and includes the General Manager of that corporation;

"local authority" means any Municipal Council, Urban Council, Town Council or Village Council and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding or similar to the powers, duties and functions exercised, performed and discharged by any such Council;

"public corporation" means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance,* with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise.

SCHEDULE

1. The supply, preservation and distribution of articles of food or drink.
2. The supply or distribution of fuel, including petroleum products and gas.
3. The supply of electricity.
4. Public transport services for passengers or goods.
5. Water supply.
6. Postal, telephone, telegraph and broadcasting services.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

7. All service, work or labour, of any description whatsoever, necessary or required to be done in connection with—

- (a) the discharge, carriage, landing, storage, delivery and removal of articles of food or drink, or of coal, oil or fuel, from vessels within any port as defined for the purposes of the Customs Ordinance ;
- (b) the maintenance, and the reception, care, feeding and treatment, of patients in hospitals, nursing homes, dispensaries, and other similar institutions ;
- (c) any undertaking maintained by any local authority for water supply, electricity, drainage and sewerage, fire and ambulance services, conservancy and scavenging (including the removal and disposal of night-soil);
- (d) the provision and maintenance of facilities for transport services by road, rail or air, including roads, bridges, culverts, airports, ports and railway lines.

8. The services provided by all Co-operative Societies and Unions.