

THE HARYANA ESSENTIAL SERVICES MAINTENANCE ACT, 1974

(HARYANA ACT NO. 40 OF 1974)

(Received the assent of the Governor of Haryana on the 13th December, 1974, and first published in Haryana Government Gazette (Extraordinary) Legislative Supplement part 1 of December 16th, 1974.

	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1974	40	The Haryana Essential Services Maintenance Act, 1974	Amended by Haryana Act 12 of 1981 ²

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. (1) This Act may be called the Haryana Essential Services Maintenance Act, 1974. Short title and extent.

(2) It extends to the whole of the State of Haryana.

2. In this Act, unless the context otherwise requires,—

Definitions.

(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 ;

1. For Statement of Objects and Reasons, see *Haryana Government Gazette (Extraordinary)*, dated the 22nd November, 1974, page 1636.

2. For Statement of Objects and Reasons, see *Haryana Government Gazette (Extraordinary)*, dated the 10th March, 1981, page 393.

"(d) "strike" means the cessation of work by a body of persons employed in any employment or class of 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—

- (i) mass casual leave in pursuance of a common understanding among the persons who avail themselves of such leave, or under the direction of any other person 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.]

Employment to which Act applies.

3. 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.

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

4. (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 person or persons engaged in such employment shall not depart out of such area or areas may be specified in such order.

(2) An order made under 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 persons affected thereby.

1. Inserted by Haryana Act 12 of 1981.

¹[4A. (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. Power to prohibit strike.

(2) An order made under sub-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 if 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 persons employed in any such employment shall be illegal].

5. (1) Any person engaged in any employment or class of employment to which this Act applies who— Offences.

(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) departs from any area specified in an order made under sub-section (1) of section 4 without the consent of the authority making the order ; ²[]

¹[(d) himself takes part in instigates or incites other person to take part in, or otherwise acts in furtherance of, any illegal strike ; or

(e) knowingly expends or supplies any money in furtherance or support of any illegal strike.]

shall be guilty of an offence under this Act.

1. Inserted by Haryana Act 12 of 1981.

2. Omitted by *ibid.*

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 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.

Regulation of
wages and
conditions of
service.

6. (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 such 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 falling to comply with them shall be guilty of an offence under this Act.

Penalties and
procedure.

7. (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), where an 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 of 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.

¹[(4) The offences under this Act shall be cognizable and non-bailable.]

(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. 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. Indemnity.

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

10. 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. Repeal.

1. Substituted by Haryana Act 12 of 1981.

PART I
LEGISLATIVE DEPARTMENT
Notification

The 16th December, 1974

No. 46-Leg/74.—The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 13th December, 1974 and is hereby published for general information :—

Haryana Act No. 40 of 1974

THE HARYANA ESSENTIAL SERVICES MAINTENANCE
ACT 974

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. (1) This Act may be called the Haryana Essential Services Maintenance Act, 1974. Short title and extent.

(2) It extends to the whole of the State of Haryana.

2. In this Act, unless the context otherwise requires,— Definitions.

(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.

3. This Act shall apply—

Employment to which Act applies.

(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. (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 person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order. Power to order persons engaged in certain employment to remain in specified areas.

(2) An order made under 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.

5. (1) Any person engaged in any employment or class of employment to which this Act applies, who— Offences.

(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 ; or

(c) departs from any area specified in an order made under sub-section (1) of section 4 without the consent of the authority making the order ;
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.

Regulation
of wages and
conditions of
service.

6. (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 such 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.

Penalties and
procedure.

7. (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 in charge 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), where an 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 of 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) No court shall take cognizance of any offence under this Act except upon a complaint in writing made by a person authorised in this behalf by the Government.

(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. 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. Indemnity.

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

10. 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. Repeal.

A. N. AGGARWAL,

Under Secretary to Government, Haryana,
Legislative Department.

PART I
LEGISLATIVE DEPARTMENT
Notification

Tha 16th April, 1981

No. Leg. 15/81.—The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 16th April, 1981 and is hereby published for general information—

Haryana Act No. 12 of 1981
THE HARYANA ESSENTIAL SERVICES MAINTENANCE
(AMENDMENT) ACT, 1981.

AN
ACT

to amend the Haryana Essential Services Maintenance Act, 1974.

BE it enacted by the Legislature of the State of Haryana in the Thirty-second Year of the Republic of India as follows :—

1. This Act may be called the Haryana Essential Services Maintenance (Amendment) Act, 1981.

Short title.

2. In section 2 of the Haryana Essential Services Maintenance Act, 1974 (hereinafter referred to as the principal Act), after clause (c), the following clause shall be inserted, namely :—

Amendment of
section 2 of
Haryana Act 40
of 1974.

“(d) “strike” means the cessation of work by a body of persons employed in any employment or class of 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—

(i) mass casual leave in pursuance of a common understanding among the persons who avail themselves of such leave, or under the direction of any other person 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. After section 4 of the principal Act, the following section shall be inserted, namely :—

Insertion of
section 4-A in
Haryana Act 40
of 1974.

“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 sub-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 illegal.”.

Amendment of
section 5 of
Haryana Act 40
of 1974.

4. In sub-section (1) of section 5 of the principal Act,—

- (i) in clause (b), the word “or” occurring at the end shall be omitted; and
- (ii) after clause (c), the following clauses shall be inserted, namely :—
 - “(d) himself takes part in, instigates, or incites other persons to take part in, or otherwise acts in furtherance of, any illegal strike ; or
 - (e) knowingly expends or supplies any money in furtherance or support of any illegal strike;”.

Amendment of
section 7 of
Haryana Act 40
of 1974.

5. For sub-section (4) of section 7 of the principal Act, the following sub-section shall be substituted, namely :—

- “(4) The offences under this Act shall be cognizable and non-bailable.”.

Repeal.

6. The Haryana Essential Services Maintenance (Amendment) Ordinance, 1981 (Haryana Ordinance No. 3 of 1981), is hereby repealed.

A. N. AGGARWAL,

Assistant Legal Remembrancer and
Under Secretary to Government, Haryana
Legislative Department.