

THE KARNATAKA ESSENTIAL SERVICES MAINTENANCE ACT, 1994

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STATEMENT OF OBJECTS AND REASONS

Act 21 of 1994.- It is considered necessary to prohibit refusal to work in certain essential services connected with production, generation, storage, transmission, supply or distribution of water or electricity, transport service for the carriage of passengers or goods by motor vehicles and any other service or employment or class thereof with respect to which the State Legislature has power to make laws.

Hence the Bill

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KARNATAKA ACT No. 21 OF 1994

(First published in the Karnataka Gazette Extraordinary on the Sixteenth day of April, 1994)

THE KARNATAKA ESSENTIAL SERVICES MAINTENANCE ACT, 1994

(Received the assent of the President on the Fifteenth day of April, 1994)

An Act to provide for the maintenance of certain essential services.

WHEREAS it is expedient to provide for the maintenance of certain essential services and for matters connected therewith for the purposes hereinafter appearing;

BE it enacted by the Karnataka State Legislature in the Forty-fifth year of the Republic of India, as follows:-

1. Short title, extent and commencement .- (1) This Act may be called the Karnataka Essential Services Maintenance Act, 1994.

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

(3) It shall come into force at once, and remain in force for a period of ten years.

2. Definitions .- (1) In this Act, unless the context otherwise requires,-

(a) "essential service" means,-

(i) any service connected with production, generation, storage, transmission, supply or distribution, as the case may be, of water or electricity;

(ii) any transport service for the carriage of passengers or goods by motor vehicles.

Explanation .- For the purpose of this clause, the expression "motor vehicle" shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988).

(iii) any other service or employment or class thereof connected with any matter with respect to which the State Legislature has power to make laws under List II of the Seventh Schedule to the Constitution and which the Government being of the opinion that refusal to work therein would prejudicially affect the maintenance of any public utility services or the public safety or the maintenance of supplies and service necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification, declare to be an essential service for the purpose of this Act;

(b) "Government" means, the State Government;

(c) "refusal to work" in relation to any person or persons, means his or their failure to attend at, or absence from the place of work on any working day or during any working hour, without obtaining permission therefor of the authority competent to grant such permission under the relevant terms and conditions of service or his or their refusal to work or to accept work during any working day or working hour or any other conduct on his or their part which results in or is likely to result in cessation or substantial retardation of work, in any essential service, and the words "refuse to work" with all their grammatical variations and cognate expressions shall be construed accordingly.

(2) (a) Every notification issued under sub-clause (iii) of clause (a) of sub-section (1) shall be laid before each House of the State Legislature within a week after it is made, if the House is in session, and within a week after the commencement of the next session

of the House, if it is not in session and shall cease to operate at the expiration of sixty days from the date of its being so laid or from the re-assembly of the State Legislature as the case may be, unless before the expiration of that period a resolution approving the issue of the notification is passed by both Houses of the State Legislature;

(b) Where any notification ceases to operate by or under this sub-section, the ceaser shall be without prejudice to anything done or omitted to be done before such ceaser.

Explanation .- Where the two Houses of the State Legislature are summoned to re-assemble on different dates the period of sixty days shall be reckoned from the latter of these dates.

3. Power to prohibit refusal to work in certain essential services .- (1) If the Government are satisfied that in the public interest or in the interest of the public order, it is necessary or expedient so to do, they may, by general or special order, prohibit refusal to work in such essential services and from such date as may be specified in the order.

(2) An order made under sub-section (1) shall be published in such manner as the Government consider 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 one year only from the date it comes into operation, but the Government may, by a like order, published in the like manner, extend it for any period not exceeding six months, if they are satisfied that in the public interest or in the interest of the public order 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 refuse to work or continue to refuse to work;

(b) any refusal to work declared or begun or continued, whether before or after the issue of the order, by any person employed in any such service, shall be illegal.

(5) Any order made under sub-section (1) or sub-section (3) may, at any time, be rescinded by the Government by a like order, but such rescission shall not affect the previous operation of such order or anything duly done or suffered thereunder, and shall not affect any obligation or liability accrued or incurred or any penalty or punishment incurred in respect of any offence committed against this Act before such rescission.

4. Penalty for illegal refusal to work .- Any person who, without reasonable excuse, refuses or continues to refuse to work in any essential service, such refusal being illegal under this Act shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

5. Penalty for instigation, etc. .- Any person who instigates, or incites any other person to take part in, or otherwise acts in furtherance of refusal to work in any essential service, such refusal being illegal under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

6. Penalty for giving financial aid to illegal refusal to work .- Any person who knowingly expends or supplies any money in furtherance or support of refusal to work in any essential service such refusal being illegal under this Act shall, on conviction, be

punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

7. Action under sections 4, 5 or 6 in addition to other disciplinary action .- Any action taken against any person under sections 4, 5 or 6 shall not affect and shall, be in addition to, any other action of a disciplinary nature or any consequence which may ensue, and to which the person may be liable by or under the terms and conditions of his service or employment.

8. Power to arrest without warrant.- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence against this Act.

9. Act to over-ride other laws.- The provisions of this Act and or any order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

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(The above translation of the, ಕರ್ನಾಟಕ ಅತ್ಯಾವಶ್ಯಕ ಸೇವೆಗಳ ನಿರ್ವಹಣಾ ಅಧಿನಿಯಮ, 1994 was published in the Official Gazette (Extraordinary) Part IV-2B dated 9-5-1994 as No.372 under clause (3) of Article 348 of the Constitution of India.)

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