

# THE PAKISTAN ESSENTIAL SERVICES (MAINTENANCE) ACT, 1952.

<sup>1</sup>ACT No. LIII OF 1952

[14<sup>th</sup> December, 1952]

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

WHEREAS <sup>2</sup>\* \* \* it is expedient to make provision for the maintenance of certain essential services :

It is hereby enacted as follows :—

**1. Short title extent and commencement.**—(1) This Act may be called the Pakistan Essential Services (Maintenance) Act, 1952.

<sup>3</sup>\* \* \* \* \*

(3) It shall come into force at once.

**2. Interpretation.** In this Act, unless there is anything repugnant in the subject or context, “employment” includes employment of any nature <sup>4</sup>[whether paid or unpaid, and whether in or out of Pakistan].

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<sup>1</sup> For Statement of Objects and Reasons, see Gaz. of P., 1952, Pt. IX, p. 20.

The Act has been applied to Baluchistan with effect on and from the 14<sup>th</sup> day of December, 1952 see Gaz. of P., 1953, Pt. I, p. 32; and extended to the Leased Areas of Baluchistan, by the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950).

It has also been applied in-

(i) the Federated Areas of Baluchistan, see Gaz. of P., 1953, Pt. II, P. 152.

It has also been extended to-

(i) the Baluchistan States Union, by the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953); and

(ii) the Khairpur State by the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953).

This Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th September, 1958, by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.]

This Act has been applied to the Provincially Administered Tribal Areas or to the parts of those areas to which it does not already apply, see Regulation No. I of 1972 Para 2 and Sch.

<sup>2</sup>The original words, commas and figures "the Declaration of emergency made by the Governor-General under section 102 of the Government of India Act, 1935, continues in force and" omitted by the Essential Services Maintenance (Adaptation) Order, 1956 (P. O. No. 13 of 1956), Art. 2 and Sch.

<sup>3</sup> The original sub-section (2) omitted by the Pakistan Essential Services (Maintenance) (Amdt.) Act, 1958, (9 of 1958), s. 2.

<sup>4</sup> Subs. *ibid.*, s. 3, for “and whether paid or unpaid”.

<sup>1</sup>**3. Employment to which the Act applies.**— (1) This Act shall apply to every employment under the <sup>2</sup>[Federal Government], and, subject to the provisions of subsection (2), to any employment or class of employment which the <sup>2</sup>[Federal Government] may, by notification in the official Gazette, declare to be an employment or class of employment to which this Act applies.

(2) No declaration under sub-section (1) shall be made in respect of any employment or class of employment unless the <sup>2</sup>[Federal Government] is of opinion that such employment or class of employment is essential :

- (a) for securing the defence or the security of Pakistan or any part thereof, or
- (b) for the maintenance of such supplies or services as relate to any of the matters with respect to which the <sup>3</sup>[Central Legislature] has power to make laws and are essential to the life of the community.

(3) A declaration under sub-section (1) shall remain in force for a period of six months which the <sup>2</sup>[Federal Government] may, by notification in the official Gazette, extend for further periods not exceeding six months at any time.]

**4. Powers to order persons engaged in certain employments to remain in specified areas.** — (1) In respect of any employment under <sup>4</sup>[the <sup>2</sup>[Federal Government] [and in respect of any employment or class of employment <sup>5</sup>[declared] under section 3 to be an employment or class of employment to which this Act applies, the <sup>6</sup>[Federal Government], or an officer authorized<sup>7</sup> in this behalf

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<sup>1</sup> Subs. by the Pakistan Essential Services (Maintenance) (Amdt.) Act, 1958 (9 of 1958), s. 4, for original section 3, as amended by the Essential Services Maintenance (Adaptation) Order, 1956 (P.O. No. 13 of 1956).

<sup>2</sup> Subs. by the F.A.O., 1975 for Central Government 1975 Art., 2 and Table.

<sup>3</sup> Subs. by A. O., 1964, Art. 2 and Sch., for “Parliament”.

<sup>4</sup> Subs. by P. O. No. 13 of 1956, Art. 2 and Sch., for certain original words.

<sup>5</sup> Ins. *ibid.*

<sup>6</sup> Subs. *ibid.*, for “Government making the declaration”.

<sup>7</sup> For notifins. Authorising certain officers of Posts and Telegraphs Department to exercise certain powers, *see* Gaz. of P., 1958, P. I, pt. 411, and for notifins. Authorising Accountant General, Pakistan Revenues, to exercise certain powers, *see* Gaz. of P., Ext., p 625c.

by that Government may, 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.

(2) An order made under sub-section (1) shall be published in such manner as the <sup>1</sup>[<sup>2</sup>[Federal Government] or the officer] making the order considers best calculated to bring it to the notice of the persons affected by the order.

<sup>3</sup>**[5. Offences.—** (1)] Any person engaged in any employment or class of employment to which this Act applies who—

- (a) disobeys any lawful order given in the course of such employment, or attempts to persuade any person to disobey any such order to, or
- (b) without reasonable excuse abandons such employment or absents himself from work <sup>4</sup>[or refuses to work or to continue to work, whether or not acting in combination with, or under a common understanding or, any other person engaged in such employment]; or
- (c) departs from any area specified in an order under sub-section (1) of section 4 without the consent of the authority making that order,

and any employer of a person engaged in an employment or class of employment declared under section 3 to be an employment or class of employment to which this Act applies, who without reasonable excuse—

- (i) discontinues the employment of such person, or

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<sup>1</sup> Subs. by P.O. No. 13 of 1956, Art. 2 Sch. For Grant of Officer.

<sup>2</sup> Subs. by F.A.O. 1975, Art. 2 and Table.

<sup>3</sup> Section 5 renumbered as subsection (1) of that section by the Pakistan Essential Services (Maintenance) (Amdt.) Act, 1958 (9 of 1958), s. 5.

<sup>4</sup> Certain words, ins., *ibid.*

(ii) by closing an establishment in which such person is engaged, causes the discontinuance of his employment,

is 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 with in the meaning of clause (b) who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

<sup>1</sup>[(2) Whoever instigates or incites any person engaged in any employment or class of employment to which this Act applies to commit an offence under this Act, or knowingly expends or supplies any money or otherwise acts in furtherance of the commission of such an offence, shall be deemed to have committed that offence.]

**6. Regulation of wages and conditions of services.**—(1) The <sup>2</sup>[Federal Government] <sup>3</sup>\* \* \*, may make rules<sup>4</sup> regulating or empowering a specified authority to regulate the wages and other conditions of service of persons or of any class of persons engaged in any employment or class of employment declared under section 3 to be an employment or class of employment to which this Act applies.

<sup>5</sup>[(1A) Notwithstanding any provision in any such rules or directions regulating wages and other conditions of service, including any rules made or directions

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<sup>1</sup> New Sub-section (2) ins. by the Pakistan Essential Services (Maintenance) (Amdt.) Act, 1958 (9 of 1958) s. 5.

<sup>2</sup> Subs. by F.A.O., 1975 Art, 2 and Table.

<sup>3</sup> The original words “or Provincial or State Government” omitted by the Essential Services Maintenance (Adaptation Order, 1956 (P.O. No. 13 of 1956), Art. 2 and Sch.

<sup>4</sup> For the Pakistan Essential Services (Maintenance) Rules, 1962, see Gaz. of P., 1962, Ext., p. 1153a.

<sup>5</sup> Added by the Pakistan Essential Services (Maintenance (Amdt.) Ordinance 1978 (36 of 1978.) (s. 2, (w.e.f. 25-1-1978).

direction given before the commencement of the Pakistan Essential Services (Maintenance) (Amendment) Ordinance, 1978, as to the day on which they shall come into force, the Federal Government may direct that they shall be deemed to have taken effect on such day, not preceding the day on which such rules were made or direction were given, as the Federal Government may specify.]

(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 them, any person failing to comply therewith is guilty of an offence under this Act.

**7. Penalties and procedure.**— (1) Any person found guilty of an offence under this Act shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to a fine.

(2) Where the person accused of an offence under this Act is a Company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, be liable to the punishment provided for the offence.

<sup>1</sup>[(3) No court shall take cognizance of any offence under this Act except upon complaint in writing made by a servant of any Government in Pakistan authorised in this behalf by the <sup>2</sup>[Federal] <sup>3</sup>[Government]].

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence under this Act shall be cognizable.

<sup>4</sup>[(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898),—

(a) no Magistrate other than a Magistrate of the first class

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<sup>1</sup> Ins. By the Karachi Rent Restriction (Amdt.) Ordinance, 1962 (48 of 1962), s.2.

<sup>2</sup> Subs. by F.A.O., 1975 Art. 2 and Table.

<sup>3</sup> Subs. by P.O. No. 13 of 1956, Art. 2 and Sch., for “or the Provincial State Government concerned”.

<sup>4</sup> New sub-section (5) added by the Pakistan Essential Services (Maintenance) Ordinance, 1965 (3 of 1965), s. 2.

the first class shall try an offence under this Act; and

- (b) a Magistrate trying an offence under this Act shall have power to try such offence summarily in accordance with the procedure laid down for summary trial in the said Code.].

<sup>1</sup>[7A. The provisions of this Act shall have effect, notwithstanding to the contrary contained in the <sup>2</sup>[Industrial Disputes Ordinance, 1969 (XXIII of 1969)], or any other law.]

**8. Bar on Legal proceedings.** 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.

**9. Saving of effect of laws imposing liability to national service.** Nothing contained in this Act or in any declaration or order made there-under shall have effect in derogation of any provision of law which is or may be for the time being in force imposing upon a person engaged in an employment or class of employment to which this Act applies any liability to be called up for national service or to undertake employment in the national service.

**10. [Repeal of Ordinance XI of 1941 and savings]** *Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2<sup>nd</sup> Sch.*

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<sup>1</sup> New section 7 A ins. by the Pakistan Essential Services (Maintenance) Ordinance, 1965 (3 of 1965), s. 3.

<sup>2</sup> Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981, (27 of 1981), s., 3 and 2<sup>nd</sup> Sch.