



The Sikkim Essential Services Maintenance Act, 1978

Act 7 of 1978

Keyword(s):

Essential Services, Strike

Amendments appended: 7 of 1985, 9 of 1993, 1994, 13 of 2000, 1 of 2002

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THE SIKKIM ESSENTIAL SERVICES MAINTENANCE ACT, 1978

ACT No.7 of 1978

AN

ACT

to make provisions for the maintenance of certain essential services and the normal life of the community.

[31st March, 1978]

WHEREAS it is expedient to make provisions for the maintenance of certain essential services and the normal life of the community.

It is hereby enacted in the Twenty-ninth Year of the Republic of India by the Legislature of Sikkim, as follows:

1. (1) This Act may be called the Sikkim Essential Services Maintenance Act, 1978. *Short title.*

(2) It shall remain in force for a period of 1 [seven] years from the date of its commencement.

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

(a) "Essential Service" means

(i) any service connected with the supply of water;

(ii) any service connected with any department of the State Government or any local authority relating to procurement, storage, distribution and supply of food and other essential commodities;

(iii) any service connected with the supply of electricity;

(iv) any service connected with medical aid, treatment or administration of hospitals, dispensaries and other similar establishments or institutions;

(v) any service connected with any department of the State Government or any local authority or other organization or institution relating to fire-service, extinguishment or control of fire, or conservancy or drainage or sanitation;

(vi) any transport service for the carriage of passenger or goods;

1. Subs. by sec. 2 of the Sikkim Essential Services Maintenance (Amendment) Act No.4 of 1981 (with effect from 30. 3. 1981).

- (vii) any service-connected with the loading unloading or storage' of goods
- (viii) any other, service which. the State Government, being of opinion that strikes therein would prejudicially affect the the-maintenance of any public service, the public safety or the maintenance of supplies and service necessary for the life. of the community or. would result .in the infliction *of* great hardship on the. Community, may, by notification in the Official Gazette declare to be an essential service for the purpose of this *Act* ,
- (b) "strike" means the cessation of work by persons employed in any essential service acting in combination of concerted refusal or a-refusal under common understanding of any 'number: of persons who are or have been so employed .to continue to work or. to accept employment, and include
 - (a) refusal to work over time where such work is
'Necessary.-.for. the' maintenance. of any essential service

- (b) . any other, conduct which is likely to. Result in.
or results in, cessation or substantial retardation
of work in any essential service,

*Power to prohibit
Strikes in essential
services.*

- 3(1) If the State 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 essential service. specified in the Order,
- (2) An Order under sub-section (1) shall be published in the Official Gazette or in such manner as the State Government considers best. calculated to bring' it to the notice of the persons to be affected by' the Order and shall remain in force for a period of six months only from the date of the Order unless any shorter period is specified therein. '
- (3) Upon the issue of an Order under sub section (1),
 - (a) no person employed in any essential service to which the Order relates shall go or remain on strike;
 - (b) any strike. Declared or commenced, whether before or after the issue of the Order, by persons em

Ployed in any such service shall be illegal.

4. Any person,
- (a) who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in, any such strike, or
 - (b) who instigates, or incites other persons to take part in, or otherwise acts in furtherance of a strike which is illegal under this Act, or
 - (c) who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Act, or
 - (d) who, by the use of force or show of force or otherwise, prevents or attempts any other person employed in any essential service, specified in the Order issued under sub-section (1) of section 3, from performing his duties under such employment, shall be punishable with imprisonment Of a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment.

5. Any offence under this Act shall be cognizable and nonbailable.

Offence to be cognizable and non-bailable.

6. The Sikkim Essential Services Maintenance Ordinance, 1977, is hereby repealed.

Repeal.

THE SIKKIM ESSENTIAL SERVICES MAINTENANCE ACT 1985

(ACT NO.7 OF 1985),

AN,

ACT

(28. 6. 85)

to make provisions for the maintenance of certain essential services and the normal life of the community.

WHEREAS it is expedient to make provisions for the maintenance of certain essential services and the normal life of the community

Be it enacted in the Thirty-sixth Year *of* the Republic of India by the Legislative Assembly of Sikkim as follows:

1. (1) This Act may be called the Sikkim Essential Services

Maintenance. Act. 1985.

(2) It extends to the whole of Sikkim.

(3) It shall be deemed to. have come into force on the 27th day of .April, 1985

(4) It shall remain in force, for a period of four years from the date of its commencement:

Provided that the said period may be extended by the Government, by notification in the Official Gazette, for a period of two years not exceeding one year at a time.

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

(1) "Essential service" means

(a) any service connected with the supply of water;

(b) any service connected with any department of the State Government or any local authority relating to procurement, storage, distribution and supply of food and other essential commodities;

(c) any service connected with the supply of electricity;

(d) any service connected with medical aid, treatment or administration of hospitals and dispensaries and other similar establishments or institutions;

(e) any service connected with any department of the State Government or any local authority or other organisation or institution relating to fire service, extinguishment or control of fire or conservancy or drainage or sanitation;

(f) any transport service for the carriage of passengers or goods;

(g) any service connected with the loading, unloading or storage of goods;

(h) any other service which the State Government, being of opinion that strikes therein would prejudicially effect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would, result in the infliction of grave hardship on the community may, by notification in the Official Gazette, declare to be an essential service for the purpose of this Act;

(2) "Strike" means the cessation of work: by persons employed in any essential service, 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

(a) refusal to work: overtime where such work is necessary for the maintenance of any essential service;

(b) any other conduct which is likely to result in or results in, cessation or substantial retardation of work any essential service.

3. (1) If the State Government is satisfied that in the public interest it is necessary or expedient so to do so it may, by general or special order, prohibit strikes in 'any essential service specified in the order.

(2) An order made under sub-section (1) shall be published in the Official Gazette or in such manner as the State Government considers best calculated to bring it to the notice of the persons to be effected 'by the' order

(3) An order made under sub-section (1) shall be in force for six months only but *the* State 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 to do so

(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 go or remain on strike

(b) any strike declared or commenced, whether before or after the issue of the order, by persons employed in any such service shall be illegal..

4 Any person,

(a) who commences a strike which is illegal, under this Act or goes or remains on, or otherwise takes part in.. any such strike, or

(b) who instigates or incites other persons to take part in or otherwise acts in, furtherance of a ,strike which is illegal under this Act. or.

(c) who knowingly expends or supplies any money .in furtherance or support of a strike which ill illegal under this Act, or

(d) who by the use of force or show of force- or otherwise, prevents any other person employed in any essential service, specified in the order issued under sub-section (1) of section 3, from performing his duties under such employment. shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both. .

5. Any offence under this Act shall be cognizable and non bail able.

*Offences to be
cognizable and
non-bail able.*

6. The provisions of this Act and of any order issued thereunder shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force.

*Act to override
other laws.*

7. (1) The Sikkim Essential Services Maintenance Ordinance, 1985 is hereby repealed.

Repeal and. Saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Gangtok, Monday 18th October, 1993.

No. 143

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No. 9/LD/1993.

Dated Gangtok the 18th October, 1993.

The following Act of the Sikkim Legislative Assembly Secretariat having received the assent of the Governor on 11th day of October, 1993 is hereby published for general information :

THE SIKKIM ESSENTIAL SERVICES MAINTENANCE ACT, 1993
(ACT NO.9 OF 1993)
AN
ACT

to make provisions for the maintenance of certain essential services and the normal life of the community.

WHEREAS it is expedient to make provisions for the maintenance of certain essential services and the normal life of the community.

BE it enacted by the Legislature of Sikkim in the Forty-fourth Year of the Republic of India as follows :

1. (1) This Act may be called the Sikkim Essential Services Maintenance Act, 1993,
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force on such date as the State Government may, by notification appoint.
- (4) It shall remain in force for a period of four years from the date of its commencement:

Provided that the said period may be extended by the Government, by notification in the Official Gazette, for a period of two years not exceeding one year at a time.

2.

In this Act, unless the context otherwise requires

- (1) "Essential service" means
 - (a) any service connected with the supply of water;
 - (b) any service connected with any department of the Staff Government or any local authority relating to procurement, storage, distribution and supply of food and other essential commodities ;
 - (c) any service connected with the supply of electricity ;
 - (d) any service connected with medical aid treatment or administration of hospitals and dispensaries and other similar establishments or institutions; any service connected with
 - (e) any department of the State Government or any

- (h) any other service "Which the State Government, being of opinion that strikes therein would prejudicially effect the maintenance or any Public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the Official Gazette, declare to be essential service for the purpose of this Act.
- (2) "Strike" means the cessation of work by persons employed in any essential service acting in combination or a concerted refusal or a refusal under
- (a) 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 refusal to work over time "Where such work is necessary for the maintenance of any essential service;
- (b) any other conduct which is likely to result in or results in, cessation or substantial retardation of work in any essential service.
- 3 1 If the State 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 essential service specified in the order.
- (2) An order made under sub-section (1) shall be published in the Official Gazette or in such manner as the State Government considers best calculated to bring it to the notice of the persons to be effected by the order.
- (3) An order made under sub-section (1) shall be in force for six months only, but the State 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.
- (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 go or remain on strike.
- (b) any strike declared or commenced, whether before or after the issue 'of the order, by persons employed in any such service shall be illegal.
- Any person
- 4(a) who commences a strike which is illegal under this Act or goes or remains on, or
- (b) otherwise takes part in, any such strike, or who instigates or incites other persons to take part in or otherwise act s in furtherance of a strike which is illegal under t his Act, or
- (c) who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under the Act, or
- (d) who by the use of force or show of force or otherwise, prevents any other persons employed in any essential service, specified in the order issued under sub-section (1) of section 3, from performing his duties under such employment, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Any offence under this Act shall be cognizable and non-bailable.

The provisions of this Act and of any order issued thereunder shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force.

By Order of Governor,

B. R. Pradhan
Secretary to the Government of Sikkim.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Gangtok, Friday, 22nd April, 1994

No. 40

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

No.1/LD/1994

Dated Gangtok the 11th April,1994

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 29th March, 1994 is hereby published for general information:-

THE SIKKIM ESSENTIAL SERVICES MAINTENANCE (AMENDMENT) ACT 1994

(ACT NO. OF 1994)

AN

ACT

to amend the Sikkim Essential Services Maintenance Act, 1993. 9 of 1993

BE it enacted by the Legislature of Sikkim in the Forty-fifth Year of the Republic of India as follows:-

Short title- 1. (1) This Act may be called the Sikkim Essential Services Maintenance Act, 1994.

Commencement.

(2) It shall come into force at once.

Amendment- 2. In the Sikkim Essential Service Maintenance Act, 1993, in section 2, after clause (g), the following clause shall be inserted, namely:-

section 2. "(ga) any service connected with the Maintenance of law and order in the State including the services of the Sikkim Armed Police and Vigilance Police".

By order of the Governor

Secretary to the Government of Sikkim,
Law Department.
F. No. 16(40)LD/85-94

SIKKIM

GOVERNMENT



GAZETTE

(EXTRAORDINARY)

PUBLISHED BY AUTHORITY

Gangtok ,

Tuesday 18th April , 2000

No . 134

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

No. 13/LD/2000.

Dated : the 17th April , 2000

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 7th day of April, 2000 is hereby published for general information:-

**THE SIKKIM ESENTIAL SERVICES MAINTENANCE ACT,2000
(ACT NO. 13 OF 2000)**

**AN
ACT..**

To provide for the maintenance of certain essential services and the normal life of the community state of Sikkim.

Be it enacted by the Legislature of Sikkim in the Fifty – first Year of the Republic of India as follows:-

**Short title
Extent and
commencement**

1. This Act may be called the Sikkim Appropriation Act 2000.
2. In this Act, unless the context otherwise requires:-
 - (a). “Essential Service” means-

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

(ii) any services connected with the maintenance of drainage, conservancy including scavenging , slaughter-houses, markets and all medical facilities provided by the State and transport service appurtenant to any such service:

(iii) any service connected in any establishment or undertaking dealing with the production, supply or distribution of electricity:

(iv) any service connected with the procurement, storage, distribution and supply of food and other essential commodities:

(v) any service connected with the maintenance of law and order in the State.

(vi) any service connected with education , teaching and administration and school , colleges and other establishments imparting education.

(vii) any services connected with the maintenance of public health and sanitation , including hospitals and dispensaries;

(viii) any service connected with any department of the State Government or any local authority or other organizations , institution relating to fire services extinguishment or control of fire or conservancy or drainage or sanitation.

(ix) any transport service for the carriage of passengers or goods:

(x) any service connected with the loading, unloading or storage of goods.

(xi) any service in connection with election to the legislatures of the State.

(xii) any other service which the State Government being of opinion that strikes therein would prejudicially affect the maintenance of any public utility services the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hard-ship on the community may, by notification in the Official Gazette, declare to be essential service for the purpose of this Act.

(b) “government” means the Government of Sikkim.

(c) "Strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any numbers of persons who are or have been so employed to continue to work or to accept employment , and includes:-

(i) casual leave or other leave enmasse in pursuance of a common understanding among the persons who avail themselves of such leave < or under the direction of any other person or any body of persons.

(ii) refusal to work overtime where such work is necessary for the maintenance of any essential services:

(iii) any other conduct which is likely to result in< or results in cessation or substantial retardation of work< in any essential service.

**Power to prohibit
Strikes in essential
services**

3. (1) If the State 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 essential service specified in the order.

(2) An order made under sub-section(1) shall be published in the Official Gazette or in such manner as the State Government considers best calculated to bring it to the notice of the persons to be affected by the order.

(3) An order made under sub-section (1) shall be in force for six months only, but the Government may, by a like order , extend it for any period not exceeding six months if they are satisfied that in public interest 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 go or remain on strike.

(b) any strike declared or commenced, wheather before or after the issue of the order, by persons employed in any such service shall be illegal.

Penalties.

4. Any person who:-
- (a) Commences a strike which is illegal under this Act or goes or remains on or otherwise takes part in , any such strike , or
 - (b) Instigates or incites other persons to take part in otherwise acts in furtherance of a strike which is illegal under this Act or
 - © knowingly expends or supplies any money in furtherance or support of a strike which is illegal under the Act or
 - (d) by the use office or show of force or otherwise, prevents any other persons employed in ay essential service, specified in the order issued under sub-section (1) of section 3 , from performing his duties under such employment, shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees , or with both.

Power to arrest Without warrant

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) , any Police Officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Act.

Offence to be tried summarily

6. Notwithstanding anything contained in the code of Criminal Procedure, 1973 , (2 of 1974) , all offences under this Act shall be tried in a summary way by any Judicial Magistrate of First Class and provisions of sections 262 to 265 (both inclusive) of the said code shall, as far as maybe, apply to such trial.

Provided that in a case of conviction for any offence in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for any term for which such offence is punishable under this Act.

Act to override Other laws.

7. The provisions of this Act and of any notification order issued there under shall have effect notwithstanding anything inconsistent therewith in any law for the time being in force.

By Order of the Governor,

**T.D.RINZING
SECRETARY TO THE
GOVT OF SIKKIM
LAW DEPARTMENT
FILE NO. 16(82) LD/2000.**

SIKKIM

GOVERNMENT



GAZETTE

EXTRA ORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Tuesday, 23rd April, 2002 No. 111

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

No. 1/LD/2002.

Dated the 10th April, 2002.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 30th day of March, 2002 is hereby published for general information :-

**THE SIKKIM ESSENTIAL SERVICES MAINTENANCE
(AMENDMENT) ACT, 2002
(ACT NO. 1 OF 2002)
AN
ACT**

To amend the Sikkim Essential Services Maintenance Act, 2002.

Be it enacted by the Legislature of Sikkim in the Fifty Third year of the Republic of India as follows :-

- Short title Extent and Commencement.** 1. (1) This Act may be called the Sikkim Essential Services Maintenance (Amendment) Act, 2002.
(2) It extends to the whole of Sikkim.
(3) It shall come into force at once.
- Amendment of Section 2.** 2. In the Sikkim Essential Maintenance Act, 2000, (hereinafter referred to as the said Act), in section 2, after clause (a), the following clause shall be inserted, namely :-
“(aa) ‘ employment’ includes employment of any nature whether paid or unpaid”
- Insertion of new Section 2A.** 3. In the said Act, after section 2, the following new section shall be inserted, namely :-
‘2A. Employment to which Act applies :- 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, be notification, declare”.

***Insertion of new
Section 3A.***

4. In the said Act, after section 3, the following new section shall be inserted, namely :-

“3A. Power to order persons engaged in certain employment to remain in specified areas.

- (i) the Government or an officer authorized by it in this behalf, may, in respect of any employment or class of employment to which section 2A 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.
- (ii) 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”.

By Order or the Governor.

**T.D. Rinzing,
Secretary to the Govt. of Sikkim,
Law Department.**

F. No. 16(82)LD/77-2002.