



The Nagaland Essential Services (Maintenance) Act, 1978

Act 4 of 1978

Keyword(s):

Essential Service, Strike, Public Interest

Amendment appended: 2 of 2018

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THE NAGALAND ESSENTIAL SERVICES (MAINTENANCE ACT, 1978)

(NAGALAND ACT. NO. 4 OF 1978)

*(Received the assent of the Governor on the 6th June, 1978 and in
the Nagaland Gazette dated the 30th October, 1980 published)*

An

Act.

To provide for the maintenance of certain Essential Services and normal life of the Community.

It is hereby enacted in the Twenty-Ninth Year of the Republic of India as follows :—

Short Title

1. (1) This Act may be called the Nagaland Essential Services (Maintenance) Act, 1978.
- (2) It extends to the whole of the State of Nagaland.
- (3) It shall come into force at once.

Definition

2. In this Act, unless the context otherwise requires :—
 - (a) "essential service" means :—
 - (i) any transport service for the carriage of passengers or goods, by land or water, with respect to which the State Legislature has power to make laws;
 - (ii) any service connected with the supply of water, electricity or any other essential commodity.
 - (iii) any service connected with the maintenance of public health and sanitation; including hospitals and dispensaries;
 - (iv) public services and posts in connection with the affairs of the State; and also persons appointed to the secretariat staff of the State Legislative Assembly.
 - (v) any other service or employment or class thereof, connected with matters with respect to which the State Legislature has power to make laws and which the State Government is of opinion that strikes in

such service, employment, or class thereof, would prejudicially affect the public safety or the maintenance of the supplies or services essential to the life of the community or would result in the infliction of grave hardship on the community, and which the State Government by notification in the official Gazette declares to be an essential service for the purposes of this Act;

- (b) "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 number of persons who are or have been so employed to continue to work or to accept employment, and includes :—
- (i) refusal to work overtime where such work is necessary for the maintenance of any essential service;
 - (ii) 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 public interest, it is necessary or expedient to do, it may by general or special order, prohibit strikes in any essential service specified in the order.

Prohibition of strike

- (2) An order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bringing it to the notice of the persons affected 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 published in like manner, 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.

- (5) Any order made under this section may at any time be rescinded, by the State Government by a like order, but such recession shall not affect the previous operation of anything 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 recession.
- (6) No order under sub-section (1) or sub-section (3) or sub-section (5) shall be made in respect of persons appointed by the Secretarial staff of the House of the State Legislative, except at the request of the Speaker of the Legislative Assembly.

Penalty for illegal strikes

4. Any person who commences a strike which is illegal under this Act or goes or remain on or otherwise takes part in, any such strike, shall, on conviction 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.

Penalty for instigation

5. Any person who instigates or incites other persons to take part in, or otherwise acts in furtherance of a strike, which is illegal under this Act shall, on conviction be punished with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees, or with both.

Penalty for giving financial aid the illegal strikes

Penalty for giving financial aid

6. Any person who knowingly extends or supplies any money in furtherance or support of a strike, which is illegal under this Act shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

Section 4, 5 and 6 in addition to disciplinary action

Disciplinary action besides above penalty

7. Any action taken under section 4, 5 or 6 shall not affect, and shall be in addition to any action of a disciplinary nature or

any consequence which may ensue, and to which any person may be liable by the terms and condition of his service or employment.

Power to arrest without warrant and offences to be non-bailable

Cognizable and non-bailable offences

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any Police Officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Act. All offences under this Act shall be non- bailable.

Bar of Legal Proceedings

9. 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.

PART-V

NOTIFICATION

Dated Kohima, 15th February 2018.

No.LAW/BILL/6-13/2018 ::: The Nagaland Essential Services (Maintenance) Act, 1978 (First Amendment) Act, 2017 (Act No. 2 of 2018) duly assented by the Hon'ble Governor of Nagaland on 21/12/2017 is published herewith for general information.

Sd/-

IMTIAKUM

Deputy Secretary to the Govt. of Nagaland.

An Act

To amend the Nagaland Essential Services (Maintenance) Act, 1978 (hereinafter referred to as the Principal Act) in the manner hereinafter appearing;

It is hereby enacted in the Seventy Eight h Year of the Republic of India as follows:

1. Short title and commencement:

(1) This act may be called the Nagaland Essential Services First Amendment Act, 2017.

2. Amendment of Section 2.

(1) In the Principal Act after Section 2 (a) (v), the following shall be inserted.

Section 2 (a) (VI) any service connected with the operation or maintenance of Aerodromes or with the operation, repair or maintenance of aircraft.

**An
Act**

To provide for the maintenance of certain Essential Services and normal life of the Community.

It is hereby enacted in the Twenty-Ninth Year of the Republic of India as follows :—

- Short title** 1. (1) This Act may be called the Nagaland Essential Services (Maintenance) Act, 1978,
 (2) It extends to the whole of the State of Nagaland.
 (3) It shall come into force at once.
- Definition** 2. In this Act, unless the context otherwise requires. —
- (a) "essential service" means —
- (i) any transport service for the carriage of passengers or goods, by land or water, with respect to which the State Legislature has power to make laws;
 - (ii) any service connected with the supply of water, electricity or any other essential commodity.
 - (iii) any service connected with the maintenance of public health and sanitation, including hospitals and dispensaries;
 - (iv) public services and posts in connection with the affairs of the State; and also persons appointed to the secretariat staff of the State Legislative Assembly.
 - (v) any other service or employment or class thereof, connected with matters with respect to which the State Legislature has power to make laws and which the State Government is of opinion that strikes in

such service, employment, or class thereof, would prejudicially affect the public safety or the maintenance of the supplies or services essential to the life of the community or would result in the infliction of grave hardship on the community, and which the State Government by notification in the official Gazette declares to be an essential service for the purposes of this Act ;

- (b) "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 number of persons who are or have been so employed to continue to work or to accept employment, and includes —
- (i) refusal to work overtime where such work is necessary for the maintenance of any essential service ;
 - (ii) any other conduct which is likely to result in or results in, cessation or substantial retardation of work in any essential service.

Prohibition
of strike

3. (1) If the State Government is satisfied that in 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 such manner as the State Government considers best calculated to bringing it to the notice of the persons affected 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 published in like manner, 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.

(5) Any order made under this section may at any time be rescinded, by the State Government by a like order, but such rescission shall not affect the previous operation of anything 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.

(6) No order under sub-section (1) or sub-section (3) or sub-section (5) shall be made in respect of persons appointed by the Secretarial staff of the House of the State Legislative, except at the request of the Speaker of the Legislative Assembly.

Penalty for illegal strikes :

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4. Any person who commences a strike which is illegal under this Act or goes or remain on or otherwise takes part in any such strike, shall, on conviction 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.

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5. Any person who instigates or incites other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Act shall, on conviction be punished with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes :

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

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Cognizable
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8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any Police Officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Act. All offences under this Act shall be non-bailable.

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9. 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.