



KARNATAKA LEGISLATIVE ASSEMBLY
FOURTEENTH LEGISLATIVE ASSEMBLY
SECOND SESSION

THE KARNATAKA ESSENTIAL SERVICES MAINTENANCE BILL, 2013
(L.A. Bill No. 12 of 2013)

A Bill 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 sixty-fourth 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, 2013.

(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) "strike" means the cessation of work by a body of persons while 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 work assigned and includes,-

- (i) refusal to work overtime where such work is necessary for the maintenance of any essential service; and
- (ii) Any other conduct which is likely to result in or results in, cessation or substantial retardation of work in any essential service.

(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 strike in certain essential services.- (1) If the Government are satisfied that in 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 strike 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 go or remain on strike; or

(b) any strike 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 strike.- Any person who commences a strike or continues to go on strike or otherwise takes part in any such strike which is illegal under this Act in any essential service, shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five 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 strike which is illegal under this Act in any essential service, shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.

6. Penalty for giving financial aid to illegal strike.- Any person who knowingly expends or supplies any money in furtherance or support of strike which is illegal under this Act in any essential service shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five 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.-(1)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 under this Act.

(2) All offences in this Act shall be non-bailable.

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

Provided that the provisions contained in this Act shall not override any of the provisions of the Electricity Act, 2003 or rule or orders made thereunder.

STATEMENT OF OBJECTS AND REASONS

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.

Accordingly, the Karnataka Essential Services Maintenance Bill, 2009 as passed by both the houses of the State Legislature was sent to Government of India to obtain the assent of His Excellency the President.

The Government of India vide its letter No.17/24/2009-Judl & PP, dated: 17.05.2010 had communicated the observation notes of the Ministry of Power and the Ministry of Labour and Employment in respect of the said Bill. The required clarifications were furnished to the Government of India vide letter No.DPAL.3.Shasana.2009, dated.20.10.2011.

The Government of India vide its letter No.17/24/2009-Judl & PP, dated: 24.10.2011 had requested the State Government to consider withdrawing the present Bill (LA Bill No.9 of 2009) and after carrying out necessary modifications to submit another Bill.

Hence the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed legislative measure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

- Clause 2.-** Sub-Item (iii) of item (a) of sub-clause (1) of clause 2 empowers the State Government to declare by notification such of the services to be the essential services for the purposes of this Act.
- Clause 3.-** Sub-clause (1) of Clause 3 empowers the State Government to specify the essential service and to specify the date from which strike therein, is prohibited in the order.

The proposed delegation of Legislative power is of a normal character.

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Secretary
Karnataka Legislative Assembly