



## The Tamil Nadu Essential Services Maintenance Act, 2002

Act 36 of 2002

**Keyword(s):**

Act Repealed by 11 of 2006, Essential Service, Strike

Amendments appended: 37 of 2003, 11 of 2006

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# TAMIL NADU GOVERNMENT GAZETTE

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## Part IV—Section 2

### Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 24th September 2002 and is hereby published for general information:—

#### ACT No. 36 OF 2002.

*An Act to provide for stricter enforcement of discipline among certain essential services and to provide for matters connected therewith.*

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Essential Services Maintenance Act, 2002.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force at once.

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

Definitions.

(a) "essential service" means—

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

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

*Explanation.*— For the purpose of this sub-clause and sub-clause (iii), the expression "motor vehicle" shall have the same meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988;

(iii) any service connected with workshop for the maintenance or repair of the motor vehicles of any transport service referred to in sub-clause (ii);

(iv) any service connected with public health and sanitation, including hospitals and dispensaries and public conservancy;

Act  
of 1988.

- (v) any service connected with a Municipal Corporation, Municipal Council or other Local Authorities;
  - (vi) any Fire Brigade Service;
  - (vii) any public services and posts in connection with the affairs of the State, and also persons appointed to the Secretarial staff of the State Legislative Assembly and the officers and servants of the High Court;
  - (viii) 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 in the Seventh Schedule to the Constitution and which the Government, being of opinion that strikes therein would prejudicially affect 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, 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;
  - (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 (viii) of clause (a) of sub-section (1) shall be placed on the Table of the State Legislative Assembly immediately after it is made, if the Assembly is in session, and on the first day of the next session of the Assembly, if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so placed or from the re-assembly of the Assembly, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by the Assembly;

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

3. (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 strikes in such essential service 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.

Power to  
prohibit  
strikes in  
certain  
essential  
services.

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An order made under sub-section (1) shall be in force for three months 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 three 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, or otherwise take part in, 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 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 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.

(6) No order under sub-section (1), sub-section (3) or sub-section (5) shall be made in respect of—

- (a) the persons appointed to the Secretarial staff of the State Legislative Assembly, except at the request of the Speaker of the Legislative Assembly;
- (b) the officers and servants of the High Court, except at the request of the Chief Justice of the High Court.

4. Any person who commences a strike which is illegal under this Act goes or remains on, or otherwise takes part in, any such strike, shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

Penalty for illegal strike.

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 three years, or with fine which may extend to five thousand rupees, or with both.

Penalty for instigation, etc.

6. Any person who knowingly expends 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 three years, or with fine which may extend to five thousand rupees, or with both.

Penalty for giving financial aid to illegal strike.

7. 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.

Action under section 4, 5 or 6 in addition to other disciplinary action.

Act to override  
other laws.

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

(By order of the Governor.)

**A. KRISHNANKUTTY NAIR,**  
*Secretary to Government,*  
*Law Department.*

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 14th November 2003 and is hereby published for general information:—

**ACT No. 37 OF 2003.**

*An Act to amend the Tamil Nadu Essential Services Maintenance Act, 2002.*

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Essential Services Maintenance (Amendment) Act, 2003.

Short title and commencement.

(2) It shall be deemed to have come into force on the 23rd day of April, 2003.

2. In section 2 of the Tamil Nadu Essential Services Maintenance Act, 2002 (hereinafter referred to as the principal Act), in sub-section (1), for clause (c), the following clause shall be substituted, namely:—

Amendment of section 2.

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

3. For section 7 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 7.

“7. *Disciplinary Action.*— (1) Notwithstanding anything contained in any Service Rules that are made applicable to Government servants, if any notification under section 3 of the Act has been published by the Government in the official gazette prohibiting strikes in respect of the service defined under section 2 of the Act, any Government servant, who has not reported for duty, after the notification prohibiting strike, where he/she was reporting prior to the notification, shall be deemed to have admitted having committed misconduct knowingly and voluntarily, warranting the punishment.

(2) The Appointing Authority may impose any penalty including a major penalty, viz., dismissal from service or in the alternative a break in service as the case may be for the aforesaid admitted misconduct without conducting enquiry and is deemed that it is not reasonably practicable to hold an enquiry and the circumstances warranting invocation of clause (b) of second proviso to Article 311(2) of the Constitution exist.

*Explanation I.*—If a Government servant absents himself/herself from attending office, he/she is deemed to have participated in the strike which has been prohibited by issuance of notification under section 3 of the Act and he/she is deemed to have explicitly admitted the misconduct.

*Explanation II.*—It will not be obligatory on the part of the Appointing Authority or the Government as the case may be to individually serve the order of dismissal or the order of break in service or any other punishment on the employees by issuance of separate order and it will be sufficient if the said order is published in the Notice Board of the office where he/she was working, or if a newspaper publication is made indicating either enmasse or individually stating the decision made in terms of sub-section (2) in respect of the said employee. Such publication can be made in any newspaper approved by the Department of Information and Public Relations.

(3) The Government servant against whom an order of dismissal or an order effecting break in service or any other punishment has been passed is entitled within one week to approach the Appointing Authority who has passed the order and prove that his/her non-reporting to duty was not due to his/her participation in the strike but due to bonafide reasons other than participation in the strike.

(4) If the Appointing Authority is satisfied that he/she did not join the strike, the Appointing Authority may pass orders revoking or modifying the orders passed under section 7(2) or reject the same.

Tamil Nadu Act 2002.

(5) If a Government servant is aggrieved by the order passed under section 7(4) he/she may appeal to the Appellate Authority within two weeks and the order passed by the Appellate Authority shall be final.

*Explanation.*—The Appellate Authority for the purposes of the above sub-section is the authority against whom appeal would normally lie under the respective Service Rules."

Repeal and  
Saving.

4. (1) The Tamil Nadu Essential Services Maintenance (Amendment) Ordinance, 2003 is hereby repealed.

Tamil Nadu  
Ordinance,  
of 2003.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

(By order of the Governor)

**A. KRISHNANKUTTY NAIR,**  
*Secretary to Government,*  
*Law Department.*

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 6th June 2006 and is hereby published for general information :—

**ACT No. 11 OF 2006**

***An Act to repeal the Tamil Nadu Essential Services Maintenance Act, 2002.***

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-seventh Year of the Republic of India as follows:—

1.(1) This Act may be called the Tamil Nadu Essential Services Maintenance (Repeal) Act, 2006.

Short title and commencement.

(2) It shall come into force at once.

Tamil Nadu Act 36 of 2002.

2.The Tamil Nadu Essential Services Maintenance Act, 2002 is hereby repealed.

Repeal.

Tamil Nadu Act 36 of 2002.

3.All actions taken under the Tamil Nadu Essential Services Maintenance Act, 2002 and all proceedings thereunder pending immediately before the commencement of this Act, before any court or authority shall abate.

Abatement of action taken and legal proceedings.

(By order of the Governor.)

**S. DHEENADHAYALAN,**  
*Secretary to Government-in-charge,  
Law Department.*