

**THE ESSENTIAL SERVICES (SECOND)
ORDINANCE, 1958**

ORDINANCE NO. XLI OF 1958

[16th July, 1958]

AND WHEREAS by a Proclamation dated the 25th day of June, 1958, under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by the Governor of East Pakistan;*

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Pol. (I), dated the 4th July, 1958 published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the powers vested in or exercisable by the Governor under the Constitution shall be exercised by the Governor;

AND WHEREAS it is necessary to provide for powers for the maintenance of services essential to the life of the community and for the maintenance of public order;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely :-

Short title,
extent and
commencement

1. (1) This Ordinance may be called the ¹[* * *] Essential Services (Second) Ordinance, 1958.

* Throughout this Ordinance, the word "Government" was substituted for the words "Provincial Government" by Article 8 of the Bangladesh (Adaptation of Existing Bangladesh Laws) Order, 1972 (President's Order No. 48 of 1972).

¹ The words "East Pakistan" were omitted by Article 6 of the Bangladesh (Adaptation of Existing Bangladesh Laws) Order, 1972 (President's Order No. 48 of 1972).

(2) It extends to the whole of ¹[Bangladesh].

(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or context,- Definition

“employment” includes employment of any nature whether paid or unpaid.

3. ²[(1)] This Ordinance shall apply to all employments under the Government, and to such other employment or class of employment ³[* * *], as the Government, being of the opinion that such employment or class of employment is essential for the maintenance of public order or for maintaining services necessary to the life of the community, may, by notification in the *official Gazette*, declare to be an employment or class of employment to which this Ordinance applies. Application of the Ordinance

⁴[(2) A declaration under sub-section (1) shall remain in force for a period of six months, but the Government may, by notification in *official Gazette*, successively extend it for further periods not exceeding six months at a time.]

4. Any person engaged in any employment under the Government or in any employment or class of employment to which this Ordinance applies who,- Offence

(a) disobeys any lawful order given in course of such employment, or attempts to persuade any person to disobey any such order, or

¹ The word “Bangladesh” was substituted for the words “East Pakistan” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Section 3 was renumbered as sub-section (1) by section 3 of the Essential Services Laws (Amendment) Act, 1974 (Act No. XXXVI of 1974).

³ The words “under any local authority” were omitted by section 3 of the Essential Services Laws (Amendment) Act, 1974 (Act No. XXXVI of 1974).

⁴ Sub-section (2) was added by section 3 of the Essential Services Laws (Amendment) Act, 1974 (Act No. XXXVI of 1974).

(b) without reasonable excuse abandons such employment or absents himself from work,

shall be guilty of an offence under this Ordinance.

¹[**Explanation 1**].- A person abandons his employment within the meaning of this section 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.

²[**Explanation 2**.- Absence from work in pursuance of any notice of strike given or purported to be given under any law shall not be deemed to be a reasonable excuse within the meaning of this section.]

Punishment

5. Any person found guilty of an offence under this Ordinance shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Overriding
Power of
the
Ordinance

³[**5A.** The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the Industrial Relations Ordinance, 1969 (Ordinance No. XXIII of 1969), or any other law for the time being in force.]

Jurisdiction
and mode of
trial

6. (1) No Magistrate other than a Magistrate of the first class shall try an offence under this Ordinance.

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

¹ The Explanation was re-numbered as Explanation 1 by section 3 of the Essential Services Laws (Amendment) Act, 1974 (Act No. XXXVI of 1974).

² Explanation 2 was added by section 3 of the Essential Services Laws (Amendment) Act, 1974 (Act No. XXXVI of 1974).

³ Section 5A was added by section 3 of the Essential Services Laws (Amendment) Act, 1974 (Act No. XXXVI of 1974).

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a Magistrate trying an offence under this Ordinance, shall have power to try such offence summarily and in trying such offences such Magistrates shall follow the procedure laid down in the Code of Criminal Procedure, 1898, for summary trial of summons cases.

7. [*Repeal and saving.- Repealed by section 2 and the Schedule of the East Pakistan Repealing and Amending Ordinance, 1966 (East Pakistan Ordinance No. XIII of 1966).*]
