

Essential Defence Services Ordinance 2021

July 2, 2021

The President of India promulgated the Essential Defence Services Ordinance which empowers the Government to prohibit strikes in essential defence services. The move has attracted criticisms from various quarters and is being seen as a “draconian” response to the defence federations’ call for an indefinite strike against the dissolution of the Ordnance Factory Board (OFB).

In news: Defence service workers barred from strike

Placing it in syllabus: Law & Policy

Dimensions

- What are Essential Defence Services?
- Provisions of the Ordinance
- Reasons for the Ordinance
- Criticisms

Content:

What are Essential Defence Services?

As per the **Essential Defence Services Ordinance 2021 (EDSO)**, Essential defence services include any service in:

- any establishment or undertaking dealing with production of goods or equipment required for defence related purposes, or
- any establishment of the armed forces or connected with them or defence.

These also include services that, if ceased, would affect the safety of the establishment engaged in such services or its employees.

In addition, the government may declare any service as an essential defence service if its cessation would affect the:

- production of defence equipment or goods,
- operation or maintenance of industrial establishments or units engaged in such production, or
- repair or maintenance of products connected with defence.

Definition of Strikes:

Under the Ordinance, strike is defined as cessation of work by a body of persons acting together. It includes:

- mass casual leave,
- coordinated refusal of any number of persons to continue to work or accept employment
- refusal to work overtime, where such work is necessary for maintenance of essential defence services, and
- any other conduct which results in, or is likely to result in, disruption of work in essential defence services.

Provisions of the Ordinance:

Key provisions of the Ordinance include:

Prohibition on strikes, lock-outs, and lay-offs:

- Under the Ordinance, the **central government may prohibit strikes, lock-outs, and lay-offs** in units engaged in essential defence services.
- The government may issue such an order if necessary in the interest of: (i) sovereignty and integrity of India, (ii) security of any state, (iii) public order, (iv) public, (v) decency, or (vi) morality.
- The prohibition order will **remain in force for six months**, and may be **extended by six months**.
- Strikes and lock-outs that are declared after the issue

of the prohibition order, or had commenced before the prohibition order was issued will be illegal.

- The prohibition **will not apply to lay-offs made due to power shortage or natural calamity**, or lay-offs of temporary or casual workmen.

Arrest without warrant, Cognizable and non-bailable offences, Summary Trial

- The ordinance also empowers a police officer to arrest without warrant any person who is reasonably suspected to have committed any offence under this Ordinance without warrant.
- All offences shall be cognizable and non-bailable.
- All offences under this Ordinance shall be tried summarily in a summary way by any Metropolitan Magistrate or any Judicial Magistrate of the first class, specially empowered in this behalf.

Punishment for illegal lock-outs and lay-offs:

- Employers violating the prohibition order through illegal lock-outs or lay-offs will be punished with up to one year imprisonment or Rs 10,000 fine, or both.

Punishment for illegal strikes:

- Persons commencing or participating in illegal strikes will be punished with up to **one year imprisonment or Rs 10,000 fine**, or both.
- Persons instigating, inciting, or taking actions to continue illegal strikes, or knowingly supplying money for such purposes, will be punished with up to **two years imprisonment or Rs 15,000 fine**, or both.
- Further, **such an employee will be liable to disciplinary action** including dismissal as per the terms and conditions of his service.
- In such cases, the concerned authority is allowed to **dismiss or remove the employee without any inquiry**, if

it is not reasonably practicable to hold such inquiry.

The Ordinance amends the **Industrial Disputes Act, 1947** to include essential defence services under **public utility services**.

Under the Act, in case of public utility services, a six-week notice must be given before:

- persons employed in such services go on strike in breach of contract or
- employers carrying on such services do lock-outs.

Reasons for the Ordinance:

- Following the Cabinet decision, Defence Minister Rajnath Singh said there would be no change in the service conditions of employees of the OFB, and the decision was **aimed at boosting India's defence manufacturing sector**.
- The notification stated that President Ram Nath Kovind "is satisfied that circumstance exists for the Ordinance as Parliament is not in session".
- However, the Ordinance comes weeks after the Centre announced a **radical overhaul of the OFB** and is in **anticipation of widespread employee protests** against OFBs corporatisation.
- Major federations of the **Ordinance Factory Board (OFB) to go on indefinite strike** from July 26 in protest against the government's decision to corporatise the Board.
- In July last year, at the peak of the crisis in eastern Ladakh, three employees' federations of the OFB were threatening to go on an indefinite strike. The proposed strike was called off only in October, over a month after they were proposed.

Criticisms:

The opposition and trade union bodies such as the All India Trade Union Congress (AITUC) have strongly condemned the

provisions of the ordinance.

- They termed EDSO a draconian ordinance that was **against the legal rights of employees and against the various ILO conventions**
- dismissal from service without inquiry, arrest and imprisonment up to two years for calling a strike and participating in a strike are draconian in character.
- It is also argued that the ordinance is susceptible to abuse and could be used in a wrong manner to **take away the right of the workers to strike.**
- It is being seen as an **attempt to crush the democratic rights and justified battle** of the defence civilian workers

Mould your thought: What are Essential Defence Services? Critically evaluate the provisions of Essential Defence Services Ordinance (EDSO) 2021.

Approach to the answer:

- Introduction
- Define Essential Defence Services
- Mention the key provisions of EDSO
- Mention the reasons for the promulgation
- Write about the criticisms of its provisions
- Conclusion