

# REPRINT

## ESSENTIAL SERVICES ACT (CAP. 12)

**As in force at: 5 February 2024**

<b>STATUS:</b> <b>CURRENT</b>
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For details see Endnotes
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**AN ACT TO PROVIDE FOR THE MAINTENANCE OF ESSENTIAL SERVICES  
AND FOR MATTERS INCIDENTAL THERETO**

## **ESSENTIAL SERVICES ACT [CAP. 12]**

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# ESSENTIAL SERVICES ACT [Cap. 12]

As in force at: 5 February 2024

## 1 Short title

This Act may be cited as the *Essential Services Act*.

## 2 Breach of contract in essential services

- (1) Every person employed in an essential service who wilfully breaks or terminates his contract of service, and every person who causes a lock-out in an essential service, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the public, wholly or to a great extent, of that service, shall be guilty of an offence and shall be liable to a fine of 2,000 penalty units or to imprisonment for three months or to both such fine and imprisonment:

Provided that no person shall be guilty of an offence under the provisions of this subsection if notice has been given by him or on his behalf in accordance with the following provisions and any regulations made under subsection (2):

- (i) the notice shall be served upon or delivered to the employer or the employee, as the case may be, and also upon or to the Permanent Secretary of the Ministry responsible for labour not less than twenty-eight nor more than forty-eight days next before the commencement of his withdrawal of labour or the lock-out, as the case may be;
- (ii) the notice shall be signed by the person or persons giving it and shall specify the names and employment of all persons by or on behalf of whom it is given, and if given by a trade union, the name of the trade union; and
- (iii) the notice shall state the date on which the withdrawal of labour or the lock-out is contemplated.

- (2) The Prime Minister may make regulations prescribing the form and

manner in which the notice referred to in the preceding subsection shall be rendered.

- (3) Every person who incites or instigates or in any way encourages, persuades or influences a person employed in an essential service to break or terminate his contract of service, or any employer to cause a lock-out, knowing or having reasonable cause to believe that the probable consequences of that employed person so doing, either alone or in combination with others, or of the lock-out, would be to deprive the public, wholly or to a great extent, of that service, shall, if breach or termination of contract or of the lock-out has taken place:

- (a) without notice having been given in accordance with the proviso to subsection (1); or
- (b) such notice having been given, before the expiration of the period of twenty-eight days or after the expiration of forty-eight days next following delivery of that notice,

be guilty of an offence and shall be liable to a fine of 3,000 penalty units or to imprisonment for three months or to both such fine and such imprisonment.

- (4) Every employer in an essential service shall cause to be posted upon all premises used for the purposes of that service, a printed copy of this section in some conspicuous place where the same may conveniently be read by persons employed therein, and as often as such copy becomes defaced, obliterated, destroyed or removed, shall cause it to be replaced with all reasonable despatch.
- (5) Every employer, other than the Government, who fails to comply with the provisions of the immediately preceding subsection shall be guilty of an offence and liable to a fine of 300 penalty units for every day during which he fails so to comply.
- (6) Every person who unlawfully injures, defaces, obliterated, destroys or removes any printed copy of this section posted up as required by subsection (4) shall be guilty of an offence and liable to a fine of 600 penalty units.

- (7) For the purposes of this section:

- (a) **“essential service”** means any of the following services by the Government or whomsoever else rendered and whether rendered to the Government or to any other person, namely, water, electricity, fire, health, hospital, sanitary, search and rescue, stevedoring and port services, telecommunications, air traffic services, air transportation, immigration, meteorology, customs and excise, quarantine, broadcasting, post office, Treasury Division of the Ministry of Finance, Inland Revenue Division, Fisheries Division and Forestry Division transport essential to the operation of the aforementioned services or any of them, and the supply and distribution of fuel, oil and petrol essential to the maintenance of the aforementioned services or any of them;
- (b) save as is otherwise provided in this Act, the term **“employer”** includes the Government and the term **“person employed”** or **“employed person”** includes a person employed by such Government;
- (c) **“lock-out”** has the meaning ascribed to it by the *Trade Unions Act*.

### **3 Breach of contract of service or hiring endangering life or property**

- (1) Any person who wilfully breaks or terminates a contract of service or hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury, shall be guilty of an offence and shall be liable to a fine of 3,000 penalty units or to imprisonment for three months or to both such fine and imprisonment.
- (2) Every person who incites or instigates or in any way encourages, persuades or influences another to break or terminate a contract of service or hiring, knowing or having reasonable cause to believe that the probable consequences of that other person so doing would be to endanger human life or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious

injury, shall be guilty of an offence and shall be liable to a fine of 3,000 penalty units or to imprisonment for three months or to both such fine and imprisonment.

#### **4 Prosecutions**

- (1) No prosecution for an offence under either of the two last preceding sections shall be commenced without the written consent of the Director of Public Prosecutions.
- (2) No person shall be prosecuted for an offence:
  - (a) under subsection (1) of section 2 where the Government, being the employer, has failed to comply with the duties required of an employer under subsection (4) of the said section; or
  - (b) under subsection (1) of section 2 or subsection (1) of section 3 if he:
    - (i) terminates his contract with the written consent of his employer; or
    - (ii) terminates his contract:
      - (1) in the case of a contract of service made in writing, by giving his employer such notice as may be specified therein; or
      - (2) in all other cases, by giving his employer one month's notice in writing.

## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 12 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

### 2

#### LIST OF LEGISLATION

##### ***Essential Services Act (Cap. 12)***

<i>Constituent legislation:</i>	22 of 1963 (Commenced 27 December 1963)
	LN 46A of 1978
	5 of 1976
	10 of 1986

##### ***Essential Services (Amendment) Act 2001 (No. 1 of 2001)***

Assent date	23 May 2001
Gazetted	13 June 2001
Commenced	13 June 2001*
[*Note: Commencement date validated by s21 of the Legislation Amendment, Repeal and Validation Act 2023]	

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

##### ***Legislation Amendment, Repeal and Validation Act 2023 (No. 17 of 2023)***

Assent date	29 December 2023
Gazetted	29 December 2023
Commenced	5 February 2024

### 3

### LIST OF AMENDMENTS

- |     |   |
|-----|---|
| s 2 | amd by Acts No. 1 of 2001; No. 14 of 2009; No. 17 of 2024 |
| s 3 | amd by Acts No. 1 of 2001; No. 14 of 2009                 |