



LIFTS AND CRANES ACT, 1985

No. 54 of 1985

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ELIZABETHAE II REGINAE

A.D. 1985

No. 54 of 1985

An Act to regulate the construction, erection, modification, maintenance and operation of cranes, hoists and lifts; to repeal the Lifts and Cranes Act, 1960; and for other purposes.

[Assented to 30 May 1985]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Lifts and Cranes Act, 1985".

Short title.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. The Lifts and Cranes Act, 1960, is repealed.

Repeal.

4. (1) In this Act, unless the contrary intention appears—

Interpretation.

"crane" means a power-driven lifting apparatus by means of which materials may be moved simultaneously in both a vertical, and a horizontal, plane:

"the Director" means—

(a) the person for the time being holding, or acting in, the office of Director of the Department of Labour;

or

(b) any person authorized by that person to exercise the powers of the Director.

"expert report" means a report by a person whose qualifications and experience are such that the person is, in the opinion of the Chief Inspector, an expert on the subject to which the report relates:

"hoist" means a power-driven lifting apparatus that is not a crane or lift:

“inspector” means—

(a) the Chief Inspector of Lifts and Cranes;

or

(b) an Inspector of Lifts and Cranes:

“lift” means a lifting apparatus (whether or not power-driven) that consists of a car or cage—

(a) that is attached to, installed in or used in connection with a building or structure;

and

(b) the movement of which is directed and controlled by a guide or guides,

and includes an apparatus in the nature of a chair lift, escalator or moving walk or any other apparatus declared by proclamation to be a lift:

“lifting apparatus” means an apparatus designed or adapted for raising or lowering, or both raising and lowering, persons or materials, or both:

“owner”—

(a) in relation to a lift—

(i) means the owner, lessee or occupier of the building or structure in, or in connection with, which that lift is used;

and

(ii) where the lift is being installed, modified or repaired—includes the contractor engaged in the installation, modification or repair;

and

(b) in relation to a crane or hoist, includes—

(i) a person for the time being taking the crane or hoist on hire or lease;

(ii) where the crane or hoist is used in or in connection with a building or structure—the owner, lessee or occupier of the building or structure;

and

(iii) where the crane or hoist is being constructed, installed, modified or repaired—the contractor engaged in the construction, installation, modification or repair:

“power-driven” means driven otherwise than by human power:

“the repealed Act” means the Lifts and Cranes Act, 1960, repealed by this Act.

(2) In this Act, a reference to any lifting or other apparatus extends to—

(a) supporting and enclosing structures;

and

- (b) machinery, electrical circuits, equipment and gear associated or connected, or used in association or connection, with the apparatus.

5. (1) This Act does not apply to or in relation to—

Application of Act.

- (a) an apparatus used or intended for use in an activity regulated by or under—

- (i) the Mines and Works Inspection Act, 1920;
(ii) the Petroleum (Submerged Lands) Act, 1982;

or

- (iii) the Petroleum Act, 1940;

or

- (b) an apparatus to which, or of a class to which, this Act is declared by proclamation under subsection (2) not to apply.

(2) The Governor may, by proclamation, declare that this Act, or any specified provision of this Act, does not apply to a specified apparatus or class of apparatus.

(3) The Governor may, by proclamation, vary or revoke a declaration under subsection (2).

(4) A proclamation under this section has effect according to its terms.

6. This Act binds the Crown.

Crown bound.

7. (1) The provisions of this Act are in addition to and do not derogate from the provisions of any other Act.

Non-derogation.

(2) The provisions of this Act do not limit or derogate from any civil remedy.

8. (1) The person for the time being holding or acting in the office of Chief Inspector of Industrial Safety, under the Industrial Safety, Health and Welfare Act, 1972, shall be the Chief Inspector of Lifts and Cranes.

Inspectors.

(2) The Governor may appoint a person to be an Inspector of Lifts and Cranes under this Act.

(3) The Minister shall provide each inspector with a certificate of identification in a form approved by the Minister.

(4) An inspector, when exercising powers or functions under this Act, shall at the request of a person affected by the exercise of those powers or functions, produce the certificate for inspection by that person.

9. (1) An inspector may—

Powers of inspectors.

- (a) for the purpose of determining whether a provision of this Act is being or has been complied with, enter at any reasonable time into or upon and inspect any premises or land or anything in or on the premises or land;

- (b) for the purpose of determining whether a provision of this Act is being or has been complied with—

- (i) remove and examine or test anything or cause it to be examined or tested;
 - (ii) require a person to answer a question (whether the question is put to the person directly or through an interpreter);
 - (iii) require a person who has custody or control of any books, documents or records to produce any such books, documents or records for inspection;
 - (iv) copy and take extracts from any books, documents or records;
 - (v) require a person to produce for inspection any certificate, exemption or notice granted or given to that person under this Act;
 - (vi) take photographs or films;
- (c) where the inspector suspects on reasonable grounds that an offence against this Act has been committed, seize and retain anything that affords evidence of that offence, or in relation to which the offence is suspected of having been committed;
- and
- (d) give such directions as are reasonably necessary for, or incidental to, the effective exercise of the powers of the inspector under this Act.

(2) In the exercise of powers under this Act, an inspector may be accompanied by such other persons as may be necessary or desirable in the circumstances.

(3) Where an inspector makes an inspection under this section, the person in charge of the premises or land the subject of the inspection shall provide such assistance as the inspector may reasonably require to facilitate the inspection.

(4) Where it appears to an inspector that the use of a crane, hoist or lift would be dangerous or that the provisions of this Act are not being complied with, the inspector may, by notice in writing—

- (a) give such directions to the owner of the crane, hoist or lift as may be necessary to prevent the risk of injury or to ensure compliance with this Act;

and

- (b) require the owner to ensure that the crane, hoist or lift is not operated until the direction has been complied with.

(5) An inspector may vary or revoke a notice under subsection (4) by a subsequent notice.

(6) A person shall not hinder or obstruct an inspector, or a person accompanying an inspector, in the exercise of powers under this Act.

Penalty: \$10 000.

(7) Subject to subsection (8), a person given a direction, or of whom a requirement is made, under this section shall not refuse or fail to comply with the direction or requirement.

Penalty: \$20 000.

(8) A person is not required to answer a question if the answer to the question would tend towards self-incrimination.

10. (1) A person shall not construct, modify or install a crane, hoist or lift otherwise than in accordance with the approval of the Chief Inspector.

Approval of design and construction.

Penalty: \$10 000.

(2) The Chief Inspector may, by notice in writing—

(a) approve the construction, modification or installation of a crane, hoist or lift, subject to such conditions, if any, as are specified in the notice;

or

(b) add to, vary or revoke the conditions of an approval under paragraph (a).

(3) The Chief Inspector shall not issue a notice under subsection (2) unless the person who intends to construct, modify or install the crane, hoist or lift has forwarded to the Chief Inspector—

(a) two copies of the plans, specifications, drawings and design calculations relating to the crane, hoist or lift;

(b) in the case of a crane, hoist or lift of a prescribed class—an expert report on the adequacy of the design of the crane, hoist or lift;

and

(c) such other information in relation to the crane, hoist or lift as the Chief Inspector may require.

(4) In determining whether or not to issue a notice under subsection (2) the Chief Inspector may have regard to a relevant standard of the Standards Association of Australia or any other standard that, in the opinion of the Chief Inspector, is relevant to a crane, hoist or lift of the kind under consideration.

(5) The Chief Inspector shall not issue a notice under subsection (2) in relation to a crane or hoist referred to in subsection (3) (b) unless satisfied that the person who prepared the expert report required under that subsection had no pecuniary interest in the design, construction, modification or installation of the crane or hoist.

(6) A person who intends to construct, modify or install a lift shall, not more than 28 and not less than 14 days before the actual commencement of the construction, modification or installation notify the Chief Inspector in writing of that intention.

Penalty: \$1 000.

(7) An approval to construct, modify or install a crane, hoist or lift in force under the repealed Act immediately before the commencement of this Act, shall, subject to this section, continue in force as if it were an approval given under this section.

11. (1) The owner of a crane, hoist or lift of a prescribed class shall not operate it, or cause or permit it to be operated, unless it is registered under this section.

Registration of cranes, hoists and lifts.

Penalty: \$5 000.

(2) The owner of a crane, hoist or lift of a prescribed class may apply to the Director for its registration.

(3) The application must be made in writing, contain the prescribed particulars and be accompanied by the prescribed fee.

(4) Where due application is made for the registration of a crane, hoist or lift, the Director may register it subject to such conditions, if any, as the Director thinks fit.

(5) Notice in writing of a condition on which a crane, hoist or lift has been registered shall be given to the owner.

(6) The Director may, by notice in writing given to the owner of a crane, hoist or lift registered under this section, add to, vary or revoke any conditions of the registration.

(7) The owner of a crane, hoist or lift registered under this section shall not contravene, or fail to comply with, a condition of the registration.

Penalty: \$5 000.

(8) The Director shall not register a crane, hoist or lift until an inspector, after making an inspection of the crane, hoist or lift, has approved in writing of its operation.

(9) The Director may cancel the registration of a crane, hoist or lift if—

(a) the owner requests cancellation of the registration;

(b) a change occurs in the ownership of the crane, hoist or lift;

(c) the crane, hoist or lift is removed from the State and is to be retained out of the State for more than 12 months;

or

(d) the owner fails to pay a fee prescribed by this Act.

(10) Where a change occurs in the ownership of a registered crane, hoist or lift, notice in writing of the change must be given to the Director within 30 days after its occurrence.

(11) Where notice of a change in the ownership of a crane, hoist or lift is not given as required by subsection (9), the previous owner and the new owner shall each be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(12) Where a registered crane, hoist or lift is removed from the State and is to be retained out of the State for more than 12 months, the owner shall give the Director notice in writing of that fact.

Penalty: \$1 000.

(13) A crane, hoist or lift registered under the repealed Act immediately before the commencement of this Act shall be deemed to have been registered under this section for the balance of the term for which it was registered under the repealed Act.

12. (1) The owner of a crane, hoist or lift shall not operate it, or cause or permit it to be operated, unless it is in a safe condition.

Penalty: \$20 000.

(2) A person erecting, constructing, modifying, maintaining or carrying out any other work on a crane, hoist or lift shall carry out the work in a safe and workmanlike manner.

Penalty: \$10 000.

13. (1) Subject to subsection (4), a person shall not—

(a) operate a lift;

or

(b) cause or permit a lift to be operated,

unless a certificate of inspection issued by an inspector is in force in relation to the lift.

Penalty: \$10 000.

(2) An inspector shall not issue a certificate of inspection in respect of a lift unless satisfied on the basis of a full and proper inspection of the lift that the lift is in good repair and may be safely operated.

(3) A certificate of inspection of a lift shall expire—

(a) at the end of a period of 12 months from the date on which it was issued;

or

(b) on the commencement of a modification to the lift,

whichever occurs first.

(4) Subject to subsection (5), the Chief Inspector, if satisfied by an expert report made on the basis of a full and proper inspection of a lift that the lift is in good repair and may be safely operated, may, by notice in writing to the owner of the lift, exempt the lift from the operation of subsection (1) for a period, not exceeding 12 months, specified in the notice.

(5) The Chief Inspector shall not grant an exemption in respect of a lift under subsection (4) unless a certificate of inspection in relation to the lift was issued by an inspector within the preceding period of 12 months.

(6) An expert report made for the purposes of this section must—

(a) be in writing;

(b) contain the prescribed particulars and such other information in relation to the lift as the Chief Inspector may require;

and

(c) be signed by the person making the report and countersigned by the owner of the lift or by an officer or employee who is duly authorized to countersign the report on the owner's behalf.

14. The owner of a crane or hoist shall cause the crane or hoist to be inspected in such manner and at such intervals as may be prescribed.

Inspections of cranes and hoists.

Penalty: \$10 000.

15. (1) Subject to subsection (2), a person shall not—

(a) operate a crane, hoist or lift if under the prescribed age;

or

Operation of cranes, hoists and lifts by young persons.

(b) cause or permit a person under the prescribed age to operate a crane, hoist or lift.

Penalty: \$5 000.

(2) The Chief Inspector, if of the opinion that a crane, hoist or lift can be operated safely by a person under the prescribed age may grant an exemption from subsection (1) in respect of that crane, lift or hoist.

(3) The Chief Inspector may revoke an exemption granted under subsection (2).

Certificates of competency.

16. (1) A person shall not operate, or cause or permit another person to operate, a crane of a prescribed class unless the person operating the crane—

(a) holds a certificate of competency under this section;

or

(b) holds a provisional certificate of competency and is under the immediate and personal supervision of a person who holds a certificate of competency under this section.

Penalty: \$10 000.

(2) Upon application in the prescribed form and payment of the prescribed fee, the Chief Inspector, if satisfied that the applicant—

(a) has been certified fit by a medical practitioner after the prescribed medical examination;

and

(b) has complied with the conditions prescribed in relation to the grant of a certificate of competency,

may grant a certificate of competency to the applicant.

(3) Upon application in the prescribed form and payment of the prescribed fee, the Chief Inspector, if satisfied that the applicant—

(a) has been certified fit by a medical practitioner after the prescribed medical examination;

and

(b) has complied with the conditions prescribed in relation to the grant of a provisional certificate of competency,

may grant a provisional certificate of competency to the applicant.

(4) The Chief Inspector may, after due inquiry and for good cause, cancel or suspend a certificate of competency or a provisional certificate of competency under this section.

(5) A certificate of competency in force under the repealed Act, immediately before the commencement of this Act, shall be deemed to be a certificate of competency under this Act, and shall, subject to this Act, remain in force for the term for which it was granted or last renewed.

(6) A learner's permit in force under the repealed Act immediately before the commencement of this Act shall be deemed to be a provisional certificate of competency under this Act, and shall, subject to this Act, remain in force for the term for which it was granted or last renewed.

17. Where an accident occurs involving a crane, hoist or lift and as a result— Accidents involving cranes, hoists or lifts.

(a) a person is injured;

or

(b) a structural member of the crane, hoist or lift is damaged,

the owner of the crane, hoist or lift shall, within 24 hours, forward to the Chief Inspector a written notice describing the circumstances surrounding the accident.

Penalty: \$5 000.

18. (1) A person who is aggrieved by a decision under this Act of the Director, the Chief Inspector, or any other inspector, may, within the period of 7 days from the making of the decision, apply in writing to the Minister for a review of the decision. Review of decisions.

(2) The Minister, on receiving an application under subsection (1), may—

(a) review the decision to which the application relates;

or

(b) appoint a person to review the application.

(3) On a review, the Minister or person appointed under subsection (2) shall have power to affirm, quash or vary the decision in respect of which the application is brought.

(4) An application under subsection (1) does not suspend the operation of the decision in respect of which the review is sought.

19. (1) Where a person by whom an expert report is prepared for the purposes of this Act— Expert reports.

(a) deliberately makes a false or misleading statement in the report;

or

(b) is negligent in preparing the report, or in carrying out any inspection or other necessary work on which the report is based,

that person shall be guilty of an offence and liable to a penalty not exceeding twenty thousand dollars.

(2) The Chief Inspector, if not satisfied as to the accuracy or sufficiency of an expert report made for the purposes of this Act—

(a) may require further expert reports to be provided;

or

(b) may require an Inspector to make a report on the subject to which the expert report relates.

20. Where a body corporate is guilty of an offence against this Act, every member of the governing body of the body corporate shall be guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the member could not by the exercise of reasonable diligence have prevented the commission of that offence. Offences by bodies corporate.

Summary
offences.

21. Proceedings for an offence against this Act shall be disposed of summarily.

Evidentiary
provisions.

22. (1) In proceedings for an offence against this Act, an allegation in the complaint—

(a) that any person named holds or held at a specified time a specified office;

or

(b) that a specified authority was or was not in force at a specified time in relation to a specified person or specified apparatus,

shall, in the absence of proof to the contrary, be deemed to be proved.

(2) In proceedings for an offence against this Act, an authority, a condition of an authority or any other notice granted, issued, imposed or given under this Act, may be proved by production of an apparently genuine document purporting to be a copy of the authority, condition or notice certified by an officer authorized by this Act to grant, issue, impose or give the authority, condition or notice.

(3) In this section “authority” means any approval, registration, certificate, provisional certificate or exemption granted, issued or given under this Act.

Exemption by
Director.

23. (1) Subject to this section, on application to the Director for exemption from a provision of this Act, the Director may, by notice in writing, exempt the applicant from compliance with that provision.

(2) An exemption granted under this section shall be subject to such conditions as the Director may specify in the notice of exemption.

(3) The Director shall not grant an exemption from compliance with a provision of this Act unless satisfied—

(a) that compliance with the provision is not reasonably practicable in the circumstances;

and

(b) that the granting of the exemption will not endanger the safety of any person.

(4) The Director may, by notice in writing given to a person granted an exemption under this section, add to, vary, or revoke any conditions of the exemption.

(5) The Director may, after due inquiry and for good cause, by notice in writing given to a person granted an exemption under this section, revoke the exemption.

(6) A person who has been exempted from compliance with a provision of this Act and who contravenes, or fails to comply with, a condition of the exemption shall be guilty of an offence and liable to the penalty prescribed for contravention of the provision in relation to which the exemption was granted.

Service.

24. A notice or other document required or authorized by this Act to be given to any person may be given personally or by post.

Regulations.

25. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

- (a) regulate the erection, construction, modification, installation, inspection, maintenance and working of cranes, hoists and lifts;
- (b) prescribe the plans, specifications, drawings and design calculations required in connection with the construction, modification and installation of cranes, hoists and lifts;
- (c) provide for the notification of accidents involving cranes, hoists and lifts;
- (d) provide for the safety of persons engaged in the erection, construction, modification, installation, inspection, maintenance and working of cranes, hoists and lifts;
- (e) prescribe the fees to be paid—
 - (i) for the inspection of plans, drawings and specifications;
 - (ii) in respect of any application under this Act;or
 - (iii) in respect of any certificate granted under this Act, being fees which may be of amounts that vary according to prescribed factors;
- (f) provide for the recovery of fees to be paid under this Act;
- (g) prescribe the form of any application, certificate, notice or other document under this Act;
- (h) provide for the grant, duration, variation, suspension or cancellation of a certificate of competency or a provisional certificate of competency;
- (i) provide for the training and examination of any applicant for, or holder of, a certificate of competency or a provisional certificate of competency;
- (j) provide for the inspection of cranes and hoists;
- (k) prescribe periodic fees to be paid in respect of registered lifts, cranes and hoists;
- (l) exempt, conditionally or unconditionally, any person or class of persons or any lifting apparatus or class of lifting apparatus from any provision of this Act;

and

- (m) provide for and prescribe penalties not exceeding five thousand dollars for breach of any regulation.

(3) A regulation made under this section may—

- (a) refer to or incorporate, in whole or in part, a standard or code of practice as in force at a particular time, or as in force from time to time, of the Standards Association of Australia or any other prescribed body;

and

(b) be of general or limited application according to the persons or classes of persons to whom, or the apparatus or classes of apparatus, or the time, place or circumstances, to which they are expressed to apply.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor