

(Reprint No. 2)

SOUTH AUSTRALIA

LIFTS AND CRANES ACT, 1985

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 March 1993.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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LIFTS AND CRANES ACT, 1985

being

Lifts and Cranes Act, 1985, No. 54 of 1985 [Assented to 30 May 1985]¹

as amended by

Lifts and Cranes Act Amendment Act, 1987, No. 30 of 1987 [Assented to 23 April 1987]¹
Lifts and Cranes Act Amendment Act, 1988, No. 89 of 1988 [Assented to 1 December 1988]
Statutes Amendment (Expiation of Offences) Act 1992 No. 71 of 1992 [Assented to 19 November 1992]²

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.

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

Short title

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

Commencement

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

Repeal

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 The *Lifts and Cranes Act, 1960*, is repealed.

Interpretation

4. (1) In this Act, unless the contrary intention appears—
“approved code of practice” means a code of practice approved by the Minister pursuant to section 17a:
“crane” means a power-driven lifting apparatus by means of which materials may be moved simultaneously in both a vertical, and a horizontal, plane:

¹Came into operation 30 January 1989: *Gaz.* 22 December 1988, p. 2094.

²Came into operation 1 March 1993: *Gaz.* 18 February 1993, p. 600.

Note: 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix 1. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

“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.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Application of Act

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

(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.

Crown bound

6. This Act binds the Crown.

Non-derogation

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

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

Inspectors

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.

(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.

Powers of inspectors

9. (1) An inspector may—

- (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: Division 4 fine.

(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: Division 4 fine.

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

Approval of design and construction

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.

Penalty: Division 3 fine.

(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: Division 5 fine.

Expiation fee: Division 6 fee.

(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.

Registration of cranes, hoists and lifts

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.

Penalty: Division 5 fine.

(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: Division 5 fine.

Expiation fee: Division 6 fee.

(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.

Penalty: Division 5 fine.

(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: Division 5 fine.

(13) A crane, hoist or lift registered under the repealed Act immediately before the commencement of this Act will be taken to be registered under this Act.

Duty in relation to the safe operation, etc., of a crane, hoist or lift**12. (1) If—**

- (a) a proper standard of care is not exercised in the operation of a crane, hoist or lift;
- (b) a crane, hoist or lift is operated while in an unsafe condition;
- or
- (c) the operator of a crane, hoist or lift (not being a lift designed for operation by the general public) has not received adequate training in its safe operation,

the owner of the crane, hoist or lift is guilty of an offence.

Penalty: Division 2 fine.

(2) A person who fails to exercise a proper standard of care in erecting, constructing, modifying or maintaining a crane, hoist or lift is guilty of an offence.

Penalty: Division 2 fine.

(3) Where in proceedings for an offence against this section—

- (a) it is alleged that a proper standard of care was not exercised in relation to the operation, erection, construction, modification or maintenance of a crane, hoist or lift;
- (b) non-compliance with a provision of an approved code of practice relevant to the subject matter of the charge is established,

it will be presumed, in the absence of proof to the contrary, that a proper standard of care was not exercised.

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Inspection of cranes, lifts and hoists

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

Penalty: Division 3 fine.

Operation of cranes, hoists and lifts by young persons**15. (1) Subject to subsection (2), a person shall not—**

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

Penalty: Division 5 fine.

(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) Subject to the regulations a person shall not—

(a) operate a crane;

or

(b) perform work of a kind prescribed by regulation,

unless the person—

(c) holds an appropriate certificate of competency;

or

(d) holds an appropriate provisional certificate of competency and is acting under the immediate and personal supervision of a person who holds an appropriate certificate of competency.

Penalty: Division 4 fine.

(1a) A person shall not cause or permit another person to act in contravention of subsection (1).

Penalty: Division 3 fine.

(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.

Accidents involving cranes, hoists or lifts

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

(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: Division 5 fine.

Approved codes of practice

17a. (1) The Minister may, by notice published in the *Gazette*—

(a) approve a document, or a number of related documents, as a code of practice for the purposes of this Act;

or

(b) vary or revoke an approved code of practice.

(2) A notice under subsection (1)—

(a) will not be published except on the recommendation of the Chief Inspector;

and

(b) will take effect on the date of its publication or some later date specified in the notice.

(3) A copy of each approved code of practice must be made available for inspection by members of the public without charge.

(4) An approved code of practice or the variation of an approved code of practice is subject to disallowance by Parliament.

(5) Every approved code of practice or variation must be laid before both Houses of Parliament within 14 days of notice of its approval being published in the *Gazette* if Parliament is in session or, if Parliament is not then in session, within 14 days after the commencement of the next session of Parliament.

(6) If either House of Parliament passes a resolution disallowing an approved code of practice or a variation of a code of practice then the code of practice or variation ceases to have effect.

(7) A resolution is not effective for the purposes of subsection (6) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not all fall in the same session of Parliament) after the day on which the code of practice was laid before the House.

Review of decisions

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.

(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)(b) 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.

Expert reports

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

(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.

Penalty: Division 3 fine.

(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.

Offences by bodies corporate

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.

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 in relation to 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) prescribe fines not exceeding a division 5 fine for contravention of the regulations.
- (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;
 - (ab) confer discretionary powers on the Director or the Chief Inspector;
- 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.

APPENDIX 1

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Section 4(1):	definition of "approved code of practice" inserted by 30, 1987, s. 3
Section 9(6) and (7):	amended by 89, 1988, Sched.
Section 10(1):	amended by 89, 1988, Sched.
Section 10(6):	amended by 89, 1988, Sched.; 71, 1992, s. 3(1) (Shed.)
Section 11(1):	amended by 89, 1988, Sched.
Section 11(7):	amended by 89, 1988, Sched.; 71, 1992, s. 3(1) (Shed.)
Section 11(11) and (12):	amended by 89, 1988, Sched.
Section 11(13):	amended by 89, 1988, s. 2
Section 12:	substituted by 30, 1987, s. 4
Section 12(1) and (2):	amended by 89, 1988, Sched.
Section 13:	repealed by 30, 1987, s. 5
Section 14:	amended by 30, 1987, s. 6; 89, 1988, Sched.
Section 15(1):	amended by 89, 1988, Sched.
Section 16(1):	substituted by 30, 1987, s. 7; amended by 89, 1988, Sched.
Section 16(1a):	inserted by 30, 1987, s. 7; amended by 89, 1988, Sched.
Section 17:	amended by 89, 1988, Sched.
Section 17a:	inserted by 30, 1987, s. 8
Section 19(1):	amended by 89, 1988, Sched.
Section 25(1):	amended by 89, 1988, Sched.
Section 25(2):	amended by 30, 1987, s. 9(a)
Section 25(3):	amended by 30, 1987, s. 9(b)

APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28a of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.