

MACHINERY SAFETY.

No. 85 of 1981.

AN ACT to amend the Machinery Safety Act 1974.

[Assented to 23 November 1981.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Machinery Safety Amendment Act 1981*. Short title and citation.

(2) In this Act the Machinery Safety Act 1974 is referred to as the principal Act. Act No. 74 of 1974.

(3) The principal Act as amended by this Act may be cited as the Machinery Safety Act 1974-1981.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 6
amended.

3. Section 6 of the principal Act is amended in subsection (1)—

(a) by inserting before the definition of “Board of Reference” the following definition—

“ “amusement device” means a device whether mobile or fixed, which is used or designed or intended for use for amusement, games, recreation, sight-seeing or entertainment by members of the public or a section of the public by means of or on which device persons may be carried, transported, raised, lowered, or supported by any part of the device including any car, carriage, platform, cage, boat, plank, chair, seat, or thing whether that part is stationary or mobile; ” ;

(b) by deleting the definition of “classified machinery” and substituting the following definition—

“ “classified machinery” means machinery of a kind or belonging to or conforming with a class or description which is prescribed; ” ;

(c) by inserting after the definition of “fence” the following definition—

“ “general machinery” means machinery to which this Act applies other than classified machinery; ” ; and

(d) in the definition of “machinery” by inserting after “hoist,” the following—

“ amusement device, ” .

4. Section 7 of the principal Act is amended in subsection (2) by deleting paragraph (c) and substituting the following paragraph—

Section 7
amended.

“ (c) machinery driven by a motor of which the power is less than 0.75 kilowatts, not being a hoist or lift; ”.

5. (1) Section 9 of the principal Act is amended in subsection (4) (a) by deleting “joint written nomination of the bodies respectively known as the Western Australian Employers’ Federation (Incorporated) and The West Australian Chamber of Manufacturers (Incorporated)” and substituting the following—

Section 9
amended,
and
transitional
provision.

“ written nomination of the body known as The Confederation of Western Australian Industry (Incorporated) ” .

(2) A member of the Machinery Safety Advisory Board, or a deputy of a member thereof, holding office immediately before this section comes into operation following nomination under section 9 (4) (a) of the principal Act shall, subject to the terms of his appointment and to this Act, continue to hold office as if he had been nominated by the body known as The Confederation of Western Australian Industry (Incorporated), and shall be eligible for re-appointment.

6. Section 11 of the principal Act is amended by repealing subsections (2), (3), (4) and (5) and substituting the following subsections—

Section 11
amended.

“ (2) All machinery to which this Act applies is required to be registered in one of the following categories—

(a) classified machinery, which shall not be used or operated unless the machinery is registered and there is in force in relation to that machinery a valid certificate of inspection; or

(b) general machinery, which shall not be used or operated unless the machinery is registered.

(3) The registration of classified machinery does not require renewal but continues in force until a change of ownership of the machinery takes place.

(4) The registration of general machinery continues in force, subject to any suspension under section 32, until—

- (a) the expiration of such period, being not more than 12 months, as the Chief Inspector enters in the Register on registration;
- (b) cancellation under section 32; or
- (c) a change of ownership takes place,

whichever first occurs.

(5) Subject to this Act, a renewal of the registration of general machinery on or before the date of expiry continues that registration in force for the period of not more than 12 months entered in the Register at the time of renewal, and so on accordingly. ” .

Section 12
repealed
and
substituted.

7. Section 12 of the principal Act is repealed and the following section is substituted—

Applications
for
registration.

“ 12. (1) An application to register classified machinery shall be made in the prescribed manner.

(2) An application to register general machinery or to renew the registration of general machinery shall be made in the prescribed manner and shall be accompanied by the prescribed fee. ” .

8. Section 13 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

Section 13
amended.

- “ (1) The Chief Inspector, upon being satisfied that the requirements of this Act as to any application for registration or for the renewal of a registration and for the payment of the prescribed fees have been complied with, and that there are no grounds upon which the application ought to be refused, shall enter the prescribed particulars in the Register and shall—
- (a) in the case of classified machinery, when all the requirements for the issue of a certificate of inspection have been satisfied, signify by the issue of such certificate that the machinery is registered; and
 - (b) in the case of general machinery, issue to the owner a certificate of registration in the form prescribed, endorsed with a receipt for the payment of the prescribed fees. ” .

9. Section 15 of the principal Act is repealed and the following section is substituted—

Section 15
repealed and
substituted.

“ 15. (1) The requirements of this Act as to the registration of machinery remain in force for so long as that machinery is being used.

Offences
as to
registration.

- (2) A person who—
- (a) owns or uses or operates any machinery liable to be registered under this Act which is not so registered;
 - (b) uses or operates any machinery liable to be registered under this Act otherwise than in accordance with any limitation, restriction or condition that is entered in the Register in relation thereto; or

- (c) owns any machinery liable to be registered under this Act and permits the use or operation of that machinery otherwise than in accordance with any limitation, restriction or condition that is entered in the Register in relation thereto,

commits an offence, unless he has been authorized in writing by an inspector so to do.

Section 16
amended.

10. Section 16 of the principal Act is amended by repealing subsections (3) and (4) and substituting the following subsection—

“ (3) A certificate of inspection continues in force, subject to any suspension under section 32, until—

(a) the expiration of such period, not being more than 2 years as the Chief Inspector endorses on the certificate;

(b) cancellation under section 32;

(c) a change of ownership takes place;
or

(d) except in the case of machinery of the kind described in section 20 (2), a change of location of the machinery occurs. ” .

Section 19
amended.

11. Section 19 of the principal Act is amended in subsection (2) (a) by deleting “capable of”.

Section 20
amended.

12. Section 20 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) This section does not apply to machinery designed for mobile use which is transferred from one place to another on hire or

otherwise but is from time to time returned to the owner for inspection and maintenance. ” .

13. Section 23 of the principal Act is amended in subsection (1) by deleting “, 1904,” and substituting the following—

Section 23 amended.

“ 1978 ” .

14. Section 35 of the principal Act is amended—

Section 35 amended.

(a) in subsection (1)—

(i) in paragraph (e), by deleting “or hoist” ; and

(ii) by inserting after paragraph (e) the following paragraph—

“ (ea) any hoist of a kind or belonging to or conforming with a class or description which is prescribed; ” ; and

(b) in subsection (2), by deleting paragraph (i).

15. Section 47 of the principal Act is amended in subsection (1) (e) by deleting “addicted” and substituting the following—

Section 47 amended.

“ addicted ” .

16. Section 48 of the principal Act is repealed and the following section is substituted—

Section 48 repealed and substituted.

“ 48. (1) Where the Chief Inspector considers that the matter does not require that a person

Summary procedure.

referred to in section 47 should be disqualified or suspended, he may, subject to subsection (2) of this section—

(a) deal with the matter summarily, without holding an inquiry under section 47; and

(b) in doing so, may take any action provided for by paragraphs (c) and (d) of section 51 (1).

(2) Before he deals with a matter summarily under subsection (1), the Chief Inspector shall afford to the person an opportunity of giving an explanation either in person or in writing. ” .

Section 54
amended,
and
transitional
provision.

17. (1) Section 54 of the principal Act is amended in subsection (1) (b) by deleting “the Western Australian Employers’ Federation (Inc.)” and substituting the following—

“ The Confederation of Western Australian Industry (Incorporated) ” .

(2) A member of a Board of Reference holding office immediately before this section comes into operation following nomination under section 54 (1) (b) of the principal Act shall, subject to the terms of his appointment and to this Act, continue to hold office as if he had been nominated by the body known as The Confederation of Western Australian Industry (Incorporated).

Section 58
amended.

18. Section 58 of the principal Act is amended—

(a) in subsection (1), by inserting after “lift,” in both places where it occurs the following—

“ amusement device, ” ; and

(b) in subsection (3), by inserting after “lift,” the following—

“ amusement device, ” .

19. Section 70 of the principal Act is amended in subsection (1) (c) by inserting after “lift” the following—

Section 70
amended.

“ , amusement device ” .