



# OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PLANT) AMENDMENT ACT 1993

No. 46 of 1993

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No. 46 of 1993

**An Act to amend the Occupational Health, Safety and Welfare Act 1986; to repeal the Boilers and Pressure Vessels Act 1968 and the Lifts and Cranes Act 1985; and for other purposes.**

[Assented to 20 May 1993]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Occupational Health, Safety and Welfare (Plant) Amendment Act 1993*.

(2) The *Occupational Health, Safety and Welfare Act 1986* is referred to in this Act as “the principal Act”.

## Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

## Amendment of s. 3—Objects of Act

3. Section 3 of the principal Act is amended by striking out paragraph (c) and substituting the following paragraph:

- (c) to protect the public against risks to health or safety arising out of or in connection with—
- (i) the activities of persons at work;
- or
- (ii) the use or operation of various types of plant;.

## Amendment of s. 4—Interpretation

4. Section 4 of the principal Act is amended—

- (a) by striking out from subsection (1) the definition of “plant” and substituting the following definition:

**“plant”** includes—

- (a) any machinery, equipment, appliance, implement or tool;
- (b) without limiting the application of this Act to any plant used at work or at any workplace, any plant to which this Act extends by virtue of the second schedule;
- (c) any component, fitting, connection, mounting or accessory used in or in conjunction with any of the above;

and

(b) by inserting after subsection (4) the following subsection:

(4a) The safe operation or use of any plant referred to in the second schedule will be taken to be an aspect of occupational health, safety and welfare.

**Amendment of s. 24—Duties of manufacturers, etc.**

5. Section 24 of the principal Act is amended—

- (a) by striking out from subsection (1) “any plant for use at work” and substituting “any plant to which this subsection applies”; and
- (b) by striking out from subsection (2) “erects or installs any plant for use at a workplace” and substituting “erects, installs or modifies any plant to which this subsection applies”; and
- (c) by inserting after subsection (2) the following subsection:

(2aa) Subsections (1) and (2) apply to—

- (a) any plant that is to be used, or reasonably expected to be used, at a workplace;

and

- (b) without limiting the operation of paragraph (a), any plant to which this Act extends by virtue of the second schedule.

**Insertion of s. 24a**

6. The following section is inserted after section 24 of the principal Act:

**Duties of owners of plant**

24a. (1) The owner of any plant to which this section applies must—

- (a) ensure so far as is reasonably practicable that the plant is maintained in a safe condition;

(b) ensure that the plant complies in all respects with prescribed requirements (if any) applicable to it;

and

(c) ensure so far as is reasonably practicable that adequate information necessary to ensure the safe use of the plant is supplied to any user of the plant.

Penalty: Division 2 fine.

(2) This section applies to—

(a) any plant that is used at a workplace;

and

(b) without limiting the operation of paragraph (a), any plant to which this Act extends by virtue of the second schedule.

(3) In this section—

“owner” includes, in relation to any plant to which this Act extends by virtue of the second schedule which is installed in, or used in connection with, a building or structure on a permanent basis, the owner, lessee or occupier of the building or structure.

#### **Amendment of s. 38—Powers of entry and inspection**

7. Section 38 of the principal Act is amended—

(a) by inserting “, or any other place where any plant to which this Act extends by virtue of the second schedule is situated” after “workplace” in subsection (1)(a); and

(b) by striking out subsection (1a) and substituting the following subsection:

(1a) Subsection (1)(a) is subject to the following qualifications:

(a) a person cannot enter a workplace where a self-employed person works alone except where he or she has a reasonable belief that there is a risk to the health or safety of a person other than the self-employed person;

and

(b) a person cannot enter a place which is not a workplace (being a place where any plant to which this Act extends by virtue of the second schedule is situated) except where he or she is doing so at a reasonable time.; and

(c) by striking out from subsection (9) “an occupier” and substituting “the occupier of a workplace”.

**Amendment of s. 40—Prohibition notices**

8. Section 40 of the principal Act is amended by inserting “, or from any plant to which this Act extends by virtue of the second schedule,” after “at work” in subsection (1).

**Amendment of s. 41—Notices to be displayed**

9. Section 41 of the principal Act is amended by inserting “or plant” after “workplace” in subsection (2)(c).

**Amendment of s. 42—Review of notices**

10. Section 42 of the principal Act is amended—

- (a) by inserting “or plant” after “whose work” in subsection (1)(b); and
- (b) by striking out from subsection (5) “at work”.

**Amendment of s. 45—Action on default**

11. Section 45 of the principal Act is amended by inserting “, or any other place where any plant to which this Act extends by virtue of the second schedule is situated” after “workplace” in subsection (1).

**Amendment of s. 64—Evidentiary provision**

12. Section 64 of the principal Act is amended by inserting “, or any other place where any plant to which this Act extends by virtue of the second schedule is situated” after “workplace” in subsection (1)(b).

**Amendment of s. 66—Modifications of regulations**

13. Section 66 of the principal Act is amended—

- (a) by striking out from subsection (1)(a) “a workplace” and substituting “any place”; and
- (b) by striking out “employee” from subsection (1)(b) and substituting “person”; and
- (c) by inserting “or plant” after “workplace” in subsection (2)(a);
- (d) by striking out from subsection (2)(b) “that workplace” and substituting “any workplace that is affected by the notice”.

**Amendment of s. 67—Exemption from Act**

14. Section 67 of the principal Act is amended—

- (a) by inserting “or any other person” after “employer” in subsection(1)(a); and
- (b) by striking out “employee” from subsection (1)(b)(i) and substituting “person”; and
- (c) by inserting “or person” after “the employer” in subsection (1); and
- (d) by striking out subsection (2) and substituting the following subsection:

(2) A notice under subsection (1) may exempt—

- (a) the employer or other person who applied for the exemption;
- (b) specified operations carried on by that employer or person;

or

- (c) a specified place under the management or control of that employer or person,

from all or any of the provisions of this Act.

#### **Amendment of first schedule**

15. The first schedule of the principal Act is amended—

- (a) by striking out “at any workplace” from item 8; and
- (b) by inserting “or plant” after “workplace” in item 21.

#### **Substitution of second schedule**

16. The second schedule of the principal Act is repealed and the following schedule is substituted:

### **SECOND SCHEDULE**

#### *Extension of Act to Specified Plant*

1. Subject to any exclusions or modifications prescribed by the regulations, this Act extends to the following types of plant (whether or not such plant is situated, operated or used at any workplace):

- (a) amusement structures;
- (b) cranes;
- (c) hoists;
- (d) lifts;
- (e) pressure equipment.

2. For the purposes of clause 1—

“**amusement structure**” means a structure or device of a prescribed kind operated for hire or reward which is used or designed to be used for amusement, recreation, sport, sightseeing or entertainment and on which persons may be moved, carried, raised, lowered or supported by any part of the structure or device;

“**crane**” means an appliance by means of which loads may be raised or lowered and moved horizontally and includes the supporting structure and foundations of such an appliance;

"hoist" means an appliance by means of which loads may be raised or lowered that is not a crane or lift;

"lift" means a permanent apparatus (or apparatus intended to be permanent) which is in or attached to a building or structure and by means of which persons, goods or materials may be raised or lowered within or on a car, cage or platform and the movement of which is restricted by a guide or guides and includes an apparatus in the nature of a chairlift, escalator, moving walk or stairway lift, and any supporting structure, machinery, equipment, gear, lift-well, enclosure and entrance;

"pressure equipment" means—

- (a) any boiler, being a vessel, or an arrangement of vessels and inter-connecting parts, in which steam or other vapour is generated, or water or other liquid is heated at a pressure greater than atmospheric pressure by the use of fire, the products of combustion, electrical power or other similar means; or
- (b) any pressure vessel (other than a boiler), being a vessel which is subject to internal or external pressure greater than atmospheric pressure and includes any interconnected part, component, valve, gauge or other fitting up to the first point of connection to any piping; or
- (c) any assembly (other than a boiler or pressure vessel) of a prescribed kind consisting of pipes, pipe fittings, valves and pipe accessories which are subject to internal or external pressure.

#### **Repeal of the Boilers and Pressure Vessels Act**

17. The *Boilers and Pressure Vessels Act 1968* is repealed.

#### **Repeal of the Lifts and Cranes Act**

18. The *Lifts and Cranes Act 1985* is repealed.

#### **Transitional provisions**

19. The Governor may, by regulation, make such transitional provisions as appear to the Governor to be necessary or expedient on account of the enactment of this Act.

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

ROMA MITCHELL Governor