

THE NORTHERN TERRITORY OF
AUSTRALIA

No. 100 of 1978

AN ORDINANCE

Relating to the Safety and Welfare of Persons
engaged in Construction and other Work and
for other purposes

[Reserved 5 March 1976]

[Assented to 21 September 1978*]

BE it ordained by the Legislative Assembly
for the Northern Territory of Australia as
follows :

Short
title

1. This Ordinance may be cited as the
Construction Safety Ordinance 1975.

Repeal and
saving

2.(1) The Scaffolding Inspection Ordinance
1932 and the Scaffolding Inspection Ordinance
1961 are repealed.

(2) Notwithstanding the repeals effected
by sub-section (1), a licence to engage in the
trade of a scaffolder or rigger granted under
the repealed Ordinances and in force imme-
diately before the date of commencement of
this Ordinance remains in force until the ex-
piration of the term of the licence and accord-
ing to its tenor under the repealed Ordinances,
as if they had not been repealed.

Ordinance to
bind the Crown

3. This Ordinance binds the Crown.

Interpreta-
tion

4.(1) In this Ordinance, unless the con-
trary intention appears -

"compressed air work" means work done by a
person while breathing a gas, or mixture
of gasses at a greater pressure than at-
mospheric pressure;

"construction work" means -

(a) in relation to a building or other
structure that is not a ship or
other floating structure -

work in erecting, laying, digging,
moving, filling, building, carry-
ing out, adding to, altering, re-
pairing, equipping, cleaning, paint-
ing, signwriting or demolishing,
being work that is done at or ad-
jacent to the site;

(b) in relation to a ship or other float-
ing structure -

the construction of the ship or
other floating structure and all
work in erecting, adding to, alter-
ing, repairing, equipping, clean-
ing, painting, signwriting or de-
molishing, being work that is done
on, or adjacent to, the ship or
other floating structure, in a

- (c) dock or on a ship or at a wharf;
- (c) work in driving or extracting piles, sheet piles or trench sheet;
- (d) work in laying or lining a pipe having an internal diameter exceeding 180 millimetres; or
- (e) work in sinking or lining a well or borehole;

"constructor" means a person who, before or after the commencement of this Ordinance or its application to the area and work in question, has undertaken to carry out himself, or through employees or other persons, work;

"demolish" includes take away, remove or dismantle, and "demolition" has a similar meaning;

"erect" includes setting up, building, constructing or setting or placing in position, and "erection" has a similar meaning;

"excavation work" means work in -

- (a) excavating for or preparing foundations for a building or structure;
- (b) tunnelling;
- (c) the making of a shaft or well; and
- (d) excavating for drainage or for the supply of services;

but does not include an excavation less than 1.5 metres depth;

"explosive - powered tool" means a tool by the use of which a projectile may be driven against, into or through a substance by means of an explosive charge, and includes each attachment to, and accessory of, such a tool, and each device used or adapted or intended to be used with the tool, but does not include a firearm;

"gear" includes a ladder, plank, rope, chain, coupling, fastening, fitting, hoist-block, pulley, hanger, sling, brace or other moveable contrivance of a like kind used, or intended to be used in connexion with work to which this Ordinance applies;

"hoisting appliance" means an appliance used, or capable of being used, for raising or lowering loads;

"Inspector" means an Inspector of Construction Safety appointed under section 7 and includes the Chief Inspector;

"light duty work" means work in which the only support used is a plank or planks supported on step ladders or trestle ladders and on which at no time do the

plank or planks support more than 2 persons and more than 125 kilograms of tools and materials;

"owner", in relation to work to which this Ordinance applies, means the person for whose direct benefit the work is done, and, in relation to any gear, scaffolding, crane or other hoisting appliance, power-driven equipment or shoring, includes the person to whom it belongs or its lessee, hirer or borrower;

"platform" includes a surface of planks or other material used -

(a) by a person to stand on; or

(b) as a working or loading platform;

"power-driven equipment" means equipment that is driven or worked by compressed air, internal combustion, electricity or other power not being human or animal power, and includes electrical equipment and associated wiring and an explosive-powered tool, but does not include a hoisting appliance;

"safety supervisor" means a person appointed under section 14 to be a safety supervisor;

"scaffolding" means a staging, platform, swinging stage, boatswain's chair or other structure (including a ladder

forming part of such a structure) that is set up or used or intended to be set up or used -

(a) in work to which this Ordinance applies; or

(b) for the support or protection of workmen or other persons on, or in the vicinity of, the work, and includes a supporting structure;

"serious bodily injury" means an injury that incapacitates or is likely to incapacitate the person suffering the injury from work for at least 7 working days;

"shoring" means material or equipment used for the temporary support of the whole or part of a building or other structure or of excavation work;

"site" means a place where work to which this Ordinance applies is or is to be carried out, including the adjoining areas where gear, materials or equipment to be used in that work are, being a place where the constructor has control for the purpose of that work;

"structure" includes a wall, chimney, safety fence, hoarding, bridge, dam, pipeline, cable, trench, reservoir,

wharf, jetty, reclamation or other erection, or ship or other floating structure;

"worker" means a person working for reward, whether as an employee, contractor or sub-contractor but, where work is being done on a ship or other floating structure, does not include a member of the crew of that ship or other structure.

Application

5.(1) The Regulations may provide that, as from a date and in an area specified, this Ordinance applies in respect of one or more of the following classes of work :

- (a) construction work or a specified class of construction work;
- (b) the demolition of the whole or part of a building or other structure where that building, or part being demolished, exceeds 6 metres above ground level;
- (c) excavation work or a specified class of excavation work where any part of the excavation exceeds a depth of 1.5 metres measured from ground level at the highest point of the excavation; or

(d) compressed air work in construction work on which an explosive is or is intended to be used.

(2) Where a regulation is made in pursuance of sub-section (1), then, as from the date specified, but subject to sub-section (4), this Ordinance applies to work included in the class or classes of work specified in the area specified.

(3) Subject to this section and to section 6, this Ordinance does not apply to work.

(4) This Ordinance does not apply to or in respect of mining work.

Shallow holes

6.(1) Notwithstanding anything elsewhere contained in this Ordinance, any person in any area who digs or causes to be dug any hole or trench of any depth shall, if that hole or trench is or is likely to be or cause a danger to the person or property of another, ensure that, while that hole or trench remains unfilled, reasonable measures, having regard to all the circumstances, are taken to minimise the danger.

Penalty : 400 dollars.

(2) Where a person has an obligation under sub-section (1), an Inspector may give such directions in writing to that person as the Inspector considers necessary to fulfil the obligation.

(3) A person shall not refuse or fail to comply, to the best of his ability, with a direction or order given to him by an Inspector under this section.

Penalty : 400 dollars.

Appointment
of Chief
Inspector
and Inspectors
of
Construction
Safety

7.(1) The Administrator may appoint a Chief Inspector of Construction Safety who shall, subject to the direction of the Administrator, be responsible for the administration of this Ordinance.

(2) The Administrator may appoint such Inspectors of Construction Safety as he considers necessary for the purposes of this Ordinance.

(3) The Administrator shall not appoint a person to be the Chief Inspector or an Inspector unless he is satisfied that that person has a licence as a rigger or scaffolder or is otherwise qualified, by training or experience, to hold the appointment.

Inspection
by
Inspector

8. (1) An Inspector may, at any reasonable time and for the purpose of making an inspection, examination or inquiry necessary or convenient for the administration and enforcement of this Ordinance, enter and remain in or on any land, building or other structure or works where work to which this Ordinance applies is being carried out.

(2) In exercising his powers under subsection (1), an Inspector may require the production of a document or record required to be kept under this Ordinance and inspect, examine and copy the document or record.

Duties of
Inspector

9. (1) Where it appears to an Inspector that, on any work to which this Ordinance applies -

(a) the use or operation of scaffolding, gear, shoring, hoisting appliance or power-driven equipment would constitute a danger to a person; or

(b) scaffolding, gear, shoring, hoisting appliance or power-driven equipment does not meet the prescribed standards or conditions or is not set up, maintained or used in accordance with the prescribed requirements,

the Inspector shall give such directions in writing to the owner or person in charge of the scaffolding, gear, shoring, hoisting appliance or power-driven equipment as the Inspector considers necessary for the prevention of accidents, or for securing compliance with those requirements.

(2) Where it appears to an Inspector that, on any work to which this Ordinance applies, or in any other work connected with that work, a person, whether engaged on that work or not, is exposed or likely to be exposed to a risk of injury from falling, or being struck by falling or moving material or from any other potential hazard, and that it is reasonable and practicable -

(a) to protect a person from that risk by a fence, guard, screen, net, rope or other precaution; or

(b) to protect a worker by supplying to him, and causing him to use, protective equipment,

the Inspector shall give to the constructor or, if the constructor is not on the site where the work is being carried out, to the person carrying out or in charge of the work, directions in writing to take such precautions as the Inspector considers necessary for the removal or reduction of that risk,

and the directions shall specify the time within which the directions shall be complied with.

(3) Where an Inspector gives directions under this section, he may also, if he considers it necessary, at the same time or subsequently, order a person in writing immediately -

(a) to cease to use, or to cease to work with, the scaffolding, gear, shoring, hoisting appliance or power-driven equipment; or

(b) in the case of directions given under sub-section (2), to cease to work in the place specified in the order until the directions have been complied with.

(4) A person shall not refuse or fail to comply, to the best of his ability, with a direction or order given to him by an Inspector under this section.

Penalty : 500 dollars.

Offences in
in relation
to an
Inspector

10. A person shall not -

(a) obstruct an Inspector in the exercise of his functions under this Ordinance;

- (b) fail to answer truthfully, a question that an Inspector, acting in the exercise of his functions under this Ordinance, requires him to answer;
- (c) fail to produce a document or record that an Inspector, acting in the exercise of his functions under this Ordinance, requires him to produce; or
- (d) directly or indirectly prevent a person from appearing before, or being questioned by, an Inspector.

Penalty : 400 dollars.

Protection of
Inspector

11. An act done or omitted to be done by an Inspector in good faith in the exercise, or purported exercise, of a power conferred or a duty imposed by this Ordinance does not render the Inspector personally liable with respect to that act or omission.

Notice of
intention
to carry
out work

12.(1) The constructor with respect to work to which this Ordinance applies shall, at least 24 hours before the commencement of the work or, if this is not practicable as soon as practicable thereafter, give or cause to be given to the Chief Inspector notice in writing, accompanied by the pres-

cribed fee for inspection specifying -

- (a) the place where, and the date upon which, it is intended to commence the work; and
- (b) such other particulars as are prescribed.

Penalty : 200 dollars.

(2) The notice and the payment of a fee referred to in sub-section (1) are not required with respect to -

- (a) the erection or use of scaffolding or a hoisting appliance on, or the rigging of, a ship or other floating structure; or
- (b) construction work in which the only scaffolding used is a structure of step-ladders and planks that is used for light duty work and is a structure on which workers are not required to work at a height exceeding 4 metres above the ground or floor on which it is erected.

(3) Upon convicting a person of an offence against this section, the court may order payment of the prescribed fee for inspection.

Requirements
for scaffold-
ing, gear,
&c.

13. A constructor shall, in respect of work to which this Ordinance applies --

- (a) ensure that scaffolding, gear, hoisting appliances, power-driven equipment and shoring used meets with the prescribed standards and conditions;
- (b) ensure that the scaffolding, gear, hoisting appliances, power-driven equipment or shoring are erected, maintained and used as prescribed;
- (c) ensure that every working place where work is being undertaken by him or on his behalf is maintained, during the work, in a safe condition;
- (d) take reasonable precautions to ensure the safety of workers engaged in that work; and
- (e) take reasonable precautions to ensure the safety of members of the public, including children.

Penalty : 400 dollars.

Appointment
of safety
supervisors

14.(1) Where the number of workers engaged at any one time at a site on work to which this Ordinance applies exceeds 20, the constructor shall, within 24 hours after the commencement of the work or after the number of workers at

a site first exceeds 20, appoint in writing a qualified person to be a safety supervisor.

Penalty : 200 dollars.

(2) A person is qualified for the purpose of sub-section (1) if -

- (a) he has at least one year's experience in the work of the kind being performed; and
- (b) he has such other qualifications as may be prescribed, or the Chief Inspector certifies that he is otherwise qualified.

(3) This section does not prevent a qualified person from being appointed a safety supervisor -

- (a) for a group of sites on which work to which this Ordinance applies is being undertaken;
- (b) jointly by 2 or more constructors; or
- (c) in place of a qualified person previously appointed.

Constructor's obligations after appointment of safety supervisors

15.(1) A constructor shall, within 24 hours after appointing a safety supervisor under section 14 -

- (a) notify the Chief Inspector of the appointment; and

- (b) cause notice of the appointment to be conspicuously displayed at the site or sites in respect of which the safety supervisor is appointed.

Penalty : 50 dollars.

Functions of safety supervisor

16. A safety supervisor shall exercise a general supervision of the observance of the requirements of this Ordinance and, generally, promote the safe conduct of the work on the site or sites in respect of which he is appointed.

Protective equipment and safety measures

17.(1) Subject to this Ordinance and the regulations a constructor shall provide for workers while they are engaged on work to which this Ordinance applies such protective equipment and protective or safety measures as are prescribed in relation to the work or class of work in which they are engaged.

Penalty : 400 dollars.

(2) A worker shall not -

- (a) refuse or fail to wear or otherwise use protective equipment so provided when engaged on work to which this Ordinance applies;

- (b) without the permission of the constructor, remove from a site protective equipment so provided;
- (c) refuse or fail to carry out such protective or safety measures as are prescribed or are required by an Inspector in pursuance of this Ordinance; or
- (d) act in such a way on a site as to
 - (i) render ineffective the protective or safety measures provided by a constructor; or
 - (ii) endanger his own safety or that of another person.

Penalty : 200 dollars.

(3) Subject to this Ordinance and the regulations, a constructor shall provide for a visitor to a work site such protective equipment and protective or safety measures as are prescribed in relation to the work or class of work being done at the site.

Penalty : 400 dollars.

- (4) A visitor to a work site shall not
 - (a) refuse or fail to wear or otherwise use protective equipment so provided;

- (b) without the permission of the constructor, remove from a site protective equipment so provided;
- (c) refuse or fail to carry out such protective or safety measures as are prescribed or are required by an Inspector in pursuance of this Ordinance; or
- (d) act in such a way on a site as to -
 - (i) render ineffective the protective or safety measures provided by a constructor; or
 - (ii) endanger his own safety or that of another person.

Penalty : 200 dollars.

Artificial
lighting

18. Where natural lighting is insufficient adequately to illuminate the site, the constructor shall provide such artificial lighting as will adequately illuminate the site.

Penalty : 400 dollars.

Amenities

19.(1) Where more than 20 workers are employed at any one time at a site at which work to which this Ordinance applies is being carried out, the constructor shall provide for the use of workers employed at that site -

- (a) drinking water;
- (b) washing facilities;

- (c) accommodation for meals, clothing and tools;
- (d) sanitary conveniences;
- (e) first aid equipment; and
- (f) appliances for the extinction of fire,

in such quantities as are prescribed in respect of the numbers of workers so employed, and located in such places as an Inspector from time to time directs.

(2) The facilities provided in accordance with sub-section (1) shall be of such standard and condition as is prescribed.

Penalty for an offence against this section : 400 dollars.

Availability
of copies
of Ordinance
and of
Regulations

20. While carrying out work to which this Ordinance applies, a constructor shall keep a copy of this Ordinance (including the regulations and rules made under this Ordinance) available for inspection by his workers at all reasonable times -

(a) at his principal place of business in the Territory; and

(b) where more than 20 workers are employed at any one time at a site on work to which this Ordinance applies - at the site of that work.

Penalty : 100 dollars.

Requirement
with regard
to rigging

21. A constructor shall not cause or permit a worker to be engaged in work to which this Ordinance applies involving the erection or dismantling of structural steel, plant or equipment (other than scaffolding) unless a person who holds a licence as a rigger in respect of that class of work is in charge of the work.

Penalty : 200 dollars.

Accidents to
be notified
to Ins-
pector

22.(1) Where an accident occurs during the course of work to which this Ordinance applies that -

- (a) causes loss of life;
- (b) incapacitates a person from work in the course of his ordinary employment for a period of 7 days; or
- (c) involves a person suffering an electric shock, or being overcome by gas, vapour or fumes, the employer, in the case of a worker employed by him who is killed or injured, shocked or overcome, or the constructor, in any other case, shall, as soon as practicable after the accident or discovery that the person is likely to be incapacitated for at least 7 days, notify an Inspector of the accident and the details under sub-section (2).

(2) The person responsible for reporting the accident under sub-section (1) shall prepare a report in writing which shall show -

(a) as far as is known, the cause of death, the cause and nature and extent of the injuries sustained, or the cause and effect of the electric shock or escape of gas, vapour or fumes;

(b) the name and residential address of the person killed, injured or subjected to the shock, gas, vapour or fumes; and

(c) such other particulars as are prescribed,

and forward the report to the Chief Inspector or the Inspector to whom the original report was made, as soon as possible after the accident.

(3) A copy of the written report prepared under sub-section (3) shall be kept by the employer or constructor, as the case may be for a period of 3 years.

Penalty for an offence against this section : 200 dollars.

Accident involving damage to scaffolding &c.

23. Where an accident occurs during the course of work to which this Ordinance applies in which a loadbearing part of a scaffolding, gear, hoisting appliance or shoring is distorted, broken or otherwise damaged, the person who at the time of the accident was in control of the use of that scaffolding, gear, hoisting appliance or shoring shall, within 24 hours after the accident or where this is not practicable, then as soon as circumstances reasonably permit, notify an Inspector of the accident.

Penalty : 200 dollars.

Scaffolding &c. not to be repaired without permission of Inspector

24. A person shall not, without the permission of an Inspector, use, remove, repair or alter the scaffolding, gear, hoisting appliance or shoring in connexion with which an accident referred to in section 22 or 23 occurred.

Penalty : 200 dollars.

Inspector to inquire and report

25. (1) As soon as practicable after an Inspector receives a notice under section 22 or 23, he, or another Inspector, shall -

(a) go to the place where the accident occurred;

(b) inquire there into the cause of the accident; and

(c) report the result of his inquiry to the Chief Inspector.

(2) While making inquiries as required by sub-section (1), an Inspector may question -

(a) the owner of the scaffolding, gear, hoisting appliance or shoring; and

(b) persons employed in or about the place where the accident occurred.

Inquiry by Magistrate into cause of accident involving personal injury

26.(1) Where, during the course of work to which this Ordinance applies, an accident occurs that causes a person serious bodily injury, the Administrator may direct that an inquiry be held by a Magistrate assisted, if the Administrator thinks fit, by a person appearing to the Administrator to be skilled in the construction and use of scaffolding, rigging, gear, hoisting appliances, power-driven equipment or shoring, as the case requires.

(2) A Magistrate so directed shall -

(a) hold the inquiry at such time and place as is convenient; and

(b) as soon as practicable after completing the inquiry, report in writing to the Administrator as to the cause of the accident.

(3) In an inquiry under this section, a Magistrate has the powers with respect to -

- (a) summoning and attendance of witnesses and the production of documents;
- (b) the examination of witnesses upon oath or affirmation,

that he would have under the Justices Ordinance with respect to a case within his jurisdiction.

Appeal from
Inspector

27.(1) A person may ask the Administrator to review a direction or order given by an Inspector under section 6, 9 or 19.

(2) Where a request is made under subsection (1), the Administrator shall review the direction or order and shall -

- (a) uphold it;
- (b) quash it; or
- (c) give a direction or order in lieu of that direction or order.

(3) A decision given by the Administrator on a review under this section has effect as a direction or order given by an Inspector.

(4) Where a person asks the Administrator to review a direction or order under this section, he may ask the Administrator to make an

interim order pending the review.

(5) Where a request is made under sub-section (4), the Administrator may, in his discretion, make such interim order, if any, as he thinks fit.

(6) A direction or order given by an Inspector has effect from the date it is given, but is subject to a decision given by the Administrator under this section.

Service of documents

28. A document required or authorized by this Ordinance to be served on, sent or given to, or lodged with, a person may be so served, sent, given or lodged -

(a) by delivering it to that person;

or

(b) by forwarding it to that person at his usual or last known place of abode or business -

(i) by registered post; or

(ii) certified mail.

Prosecutions

29. Unless instituted by the Attorney-General, a prosecution for an offence against this Ordinance shall not be brought without the consent in writing of the Chief Inspector.

Rules

30.(1) The Chief Inspector may make rules, not inconsistent with this Ordinance or the regulations, prescribing all matters that this Ordinance requires or permits to be prescribed by rules or that are necessary or convenient to be so prescribed for carrying out or giving effect to this Ordinance and, in particular, prescribing -

- (a) standards of, and standards of use of, rigging, scaffolding, gear, hoisting appliances, power-driven equipment, fencing and shoring to be used in work to which this Ordinance applies;
- (b) the provision of and standard of protective equipment and protective or safety measures for workers and others;
- (c) the provision of and standards of artificial lighting for use on a work site;
- (d) the standards, quantity and condition of things to be provided as required by section 19 and the number of workers for the purpose of that section; and
- (e) penalties not exceeding a fine of

200 dollars for offences against the rule.

(2) The rules may prescribe standards by reference to standards as prepared and published by the Standards Association of Australia, with or without modification.

Rules must
be
confirmed

31.(1) A rule under this Ordinance -

(a) has no effect as a law of the Territory unless it is confirmed by the Administrator in Council; and

(b) comes into operation on the day on which notice of the confirmation of the rule by the Administrator in Council is published in the Gazette or, if a later date is specified in that notice as the day on which it comes into operation, on that later day.

(2) Subject to this section, rules under this Ordinance confirmation of which as provided by sub-section (1) is notified in the Gazette shall be deemed to be regulations for the purposes of the Interpretation Ordinance and the Regulations Publication Ordinance as

if they were made by the Administrator in Council.

Regulations

32. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that this Ordinance requires or permits to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and, in particular, prescribing -

- (a) the qualifications required of an applicant for a licence as a rigger or scaffolder;
- (b) the licence, or classes of licence, as a rigger or scaffolder;
- (c) the conditions under which such a licence or a provisional licence may be granted and issued, amended, extended, renewed, replaced, suspended or revoked, and the fees payable;
- (d) the qualifications of drivers of hoisting appliances;
- (e) the qualifications of operators of power-driven equipment and the licensing of such operators;
- (f) the forms to be used under this Ordinance;

- (g) the fees payable for a test, examination, inspection or other thing required or permitted to be done under this Ordinance;
 - (h) penalties not exceeding a fine of 200 dollars for offences against the regulations; and
 - (i) the records to be kept in connexion with the use and inspection of hoisting appliances and machinery.
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