

Regulations 1975 No. 21

Regulations under the *Machinery Ordinance* 1949-1966.*

I, GORDON MUNRO BRYANT, the Minister of State for the Capital Territory, hereby make the following Regulations under the *Machinery Ordinance* 1949-1966.

Dated this twenty-second day of September, 1975.

GORDON M. BRYANT
Minister of State for the Capital Territory.

AMENDMENTS OF THE INSPECTION OF MACHINERY REGULATIONS†

1. These Regulations shall come into operation on 1 December 1975.

Commence-
ment.

2. Regulation 3 of the Inspection of Machinery Regulations is repealed.

Repeal.

3. Regulation 4 of the Inspection of Machinery Regulations is amended by omitting paragraph (b) of the definition of "machinery" and substituting the following paragraph:—

Definitions.

"(b) other than for the purposes of Part IIIA of these Regulations, the *Scaffolding and Lifts Ordinance* 1957-1974 or regulations made under that Ordinance;"

4. Regulation 18 of the Inspection of Machinery Regulations is repealed and the following regulation is substituted:—

"18. (1) An occupier who is dissatisfied with the requirements of a notice given in pursuance of regulation 16 or 17 may, within 21 days after the notice has been given to him, appeal to the Court of Petty Sessions.

Appeal.

"(2) On the hearing of the appeal the Court may, by order, confirm, set aside or vary the notice and may make such other order as to it seems just.

"(3) Until the appeal is decided by the Court, the circular saw, machinery or engine, as the case may be, shall not be used unless the requirements of the notice have been complied with."

5. After Part III of the Inspection of Machinery Regulations the following Part is inserted:—

"PART IIIA—Noise

"22A. In this Part, 'ear protection device' means a device that complies with the requirements of the standard published by the Standards Association of Australia and known as 'Australian Standard Specification for Hearing Protection Devices—A.S. 1270'.

Definition.

* Notified in the *Australian Government Gazette* on 30 September 1975.

† Regulations 1950, No. 7, as amended by Regulations 1969, No. 1.

Persons
not to be
required
to work
where
noise
exceeds 85
decibels.

"22B. (1) An occupier of premises shall not require a person to perform work in a place in which the level of noise caused by the use of machinery on the premises exceeds 85 decibels when measured on the 'A' weighting network.

Penalty: \$200.

"(2) It is a defence to a prosecution for an offence against sub-section (1) for the defendant to prove that, at the time at which the offence is alleged to have been committed, all persons employed by the defendant to work in the part of the premises in relation to which the offence is alleged to have been committed—

- (a) were provided with ear protection devices;
- (b) had been instructed in the correct use of the devices; and
- (c) had been instructed to wear the devices in that part of the premises.

"(3) If the wearing of an ear protection device is reasonably likely to give rise to a situation of danger by impairing the hearing of the wearer, the defence provided for by sub-section (2) is not available to the occupier of the premises unless he has taken reasonable precautions to prevent injury to any person by reason of the creation of such a situation of danger.

Duty to wear
ear protection
devices.

"22C. A person who is working on premises and who has been provided by the occupier of the premises with ear protection devices shall, at all times while machinery on the premises is in use, comply with instructions given to him by the occupier in connexion with the wearing of the devices.

Penalty: \$100.

Defence.

"22D. It is a defence to a prosecution for an offence against regulation 22c if, at the time the offence is alleged to have been committed, a duly qualified medical practitioner had certified in writing that in his opinion it was undesirable, on medical grounds or by reason of physical characteristics, for the defendant to wear the ear protection devices provided for him and the certificate had not been revoked."