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The Tamil Nadu Lifts Act, 1997

Act 35 of 1997

Keyword(s):

Inspector, Lift, Lift Car, Lift Installation, Lift Way, Lift Way Enclosure, Owner

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TAMIL NADU GOVERNMENT NEWSLETTER EXTRAORDINARY

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 17th May 1997 and is hereby published for general information :—

ACT No. 35 OF 1997.

An Act to provide for the regulation of the erection, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the State of Tamil Nadu and to provide for matters connected therewith.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Tamil Nadu Lifts Act, 1997.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires,—

Deductions.

(a) "Government" means the State Government ;

(b) "Inspector" means the Inspector of Lifts appointed under section 3 ;

(c) "lift" means a hoisting mechanism designed to carry passengers or goods or both and equipped with a car which moves in a substantial vertical direction and is worked by power, but does not include a hoist or lift to which the Factories Act, 1948 applies.

Central Act
LXIII of 1948

Explanation.—For the purposes of this clause, "power" means electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency ;

(d) "lift car" means the cage or car of a lift and includes the floor or platform, car frame, sling and enclosing body work ;

(e) "lift installation" includes the lift car, the lift way, the lift way enclosure and the operating mechanism of the lift and all ropes, cables, wires and plant, directly connected with the operation of the lift ;

(f) "lift way" means the shaft in which the lift car travels ;

(g) "lift way enclosure" includes any permanent substantial structure surrounding or enclosing the lift way ;

(h) "owner" includes—

(i) a lessee,

(ii) a licensee,

(iii) a mortgagee in possession, and

(iv) any person or authority to whom or to which, the possession of, and control over the affairs of, the place in which a lift has been erected and work has been entrusted, whether such person or authority is called a managing trustee, an agent, a correspondent, manager, superintendent, secretary or by any other name whatsoever.

Appointment of
Inspector of
Lifts.

3. The Government may, by notification, appoint one or more persons possessing such qualifications as may be prescribed to be Inspectors for the purposes of this Act and specify in such notification the local limits of their jurisdiction.

Permission to
erect lift.

4. (1) No owner of a place shall on and after the commencement of this Act erect a lift in such place except under, and in accordance with a permission granted under this Act.

(2) Every application for permission to erect a lift shall be made in writing to the Inspector and shall be accompanied by such fee not exceeding one thousand rupees as may be prescribed and shall contain the following particulars, namely :—

- (a) the type of the lift ;
- (b) the rated maximum speed of the lift ;
- (c) the maker's or designer's rated capacity in weight ;
- (d) the maximum number of passengers in addition to the lift operator which the lift can carry ;
- (e) the total weight of the lift car carrying the maximum load (weight of car plus maximum allowable load) ;
- (f) the weight of the counter weight ;
- (g) the number, description, weight and size of the supporting cables ;
- (h) the depth of the pit from the lowest part of the car when at the lowest floor ;
- (i) such details, as may be prescribed, of the construction of the overhead arrangement with the weight and sizes of the beams ; and
- (j) such other particulars as may be prescribed.

(3) On receipt of an application under sub-section (2), the Inspector may, after making such enquiry as he deems necessary either grant or refuse to grant the permission. Every permission granted shall be in such form and subject to such terms and conditions as may be prescribed and shall be valid for a period of six months from the date on which it is granted.

(4) Every owner of a place who is granted permission under sub-section (3) shall, within one month after the completion of the erection of such lift, send a report of completion to the Inspector in such form as may be prescribed.

(5) Where the Inspector refuses to grant permission under sub-section (3), he shall give reasons in writing for such refusal.

5. (1) No owner of a place shall work or cause to be worked or allow the working of any lift in such place except under and in accordance with a licence.

Licence for working of lift.

(2) Every application for a licence under sub-section (1) shall be made to the Inspector in such form as may be prescribed and shall be accompanied by such fee not exceeding one thousand rupees as may be prescribed.

(3) On receipt of an application made under sub-section (2), the Inspector, after making such inspection and enquiry as he deems necessary, may, either grant or refuse the licence.

(4) Every licence granted under sub-section (3) shall be in such form and subject to such terms and conditions as may be prescribed.

(5) Every licence granted under sub-section (3) shall be valid for a period of one year from the date on which it is granted and shall be renewable yearly after an inspection and on payment of such fee as may be prescribed.

(6) Where the Inspector refuses to grant a licence under sub-section (3), he shall give reasons in writing for such refusal.

6. (1) Notwithstanding anything contained in this Act but subject to the provisions of sub-section (2), every owner of a place in which a lift has been erected and is being worked immediately before the date of the commencement of this Act, may continue the working of such lift at such place.

Provision in respect of existing lifts.

(2) Every person entitled to continue the working of a lift under sub-section (1) shall not continue the working of the lift after the expiry of a period of two months from the date of commencement of this Act unless he obtains a licence under section 5 in respect of such lift.

(3) Every application for a licence under sub-section (2) shall be in such form as may be prescribed and shall be accompanied by such fee not exceeding one thousand rupees as may be prescribed.

Renewal.

7. (1) Every application for the renewal of a licence granted under this Act shall be made not less than three months before the date of the expiry of the period of such licence.

(2) The provisions of this Act shall, as far as may be, apply in relation to the renewal of a licence as they apply in relation to the grant of a licence under section 5.

Power to cancel or suspend licence.

8. (1) The Inspector may after giving the holder thereof an opportunity of being heard cancel or suspend any licence if it appears to him:—

- (i) that such licence has been obtained by misrepresentation or fraud; or
- (ii) that the licensee has contravened, or failed to comply with, any of the provisions of this Act or the rules made thereunder or any of the terms and conditions of the licence; or
- (iii) that the licensee has contravened or failed to comply with, an order passed under this Act or the rules made thereunder; or

(2) The Inspector may, if he is of the opinion that any licence granted under this Act is liable to be cancelled, pending cancellation of the licence and for reasons to be recorded in writing, suspend any licence and in such a case, no opportunity of being heard need be given.

(3) The Inspector may, either suo motu or on application, review any order passed under sub-section (1),—

- (i) on the basis of a mistake or error apparent on the face of the record; or
- (ii) on the basis of new facts brought to his notice after the order was made; or
- (iii) for any other sufficient reason:

Provided that the Inspector shall not pass an order under this sub-section prejudicial to any person unless such person has been given a reasonable opportunity of making his representation.

Addition to, or alteration of, lift installation.

9. No addition or alteration (other than those required to be made under sub-sections (2) of section (11) shall be made to any lift installation except with the previous permission in writing of the Inspector.

Erection, addition or alteration work of lift installation to be entrusted to competent persons.

10. No owner erecting, adding to or altering a lift installation, shall entrust the work to any person other than the manufacturer of the lift or to a company of electrical and mechanical engineers approved by the Inspector.

Explanation.—For the purposes of this section, 'company' means any body, corporate, and includes a firm or other association of individuals whether registered or not.

11. (1) The Inspector or any person appointed under section 14 to assist him may, at any time after giving reasonable notice to the owner, enter upon any place in which a lift is erected or is being worked or in connection with which an application for a permission under section 4 or a licence under section 5 has been received, for the purpose of inspecting the site, the erection of lift or the lift installation, as the case may be. The person appointed under section 14 to assist the Inspector shall, after making such inspection, send a report regarding the condition of the lift installation inspected, to the Inspector for taking action under this Act.

(2) If on such inspection, the Inspector is of opinion that any lift installation in any place is in an unsafe condition, he may, by order in writing, direct the owner of the place to carry out such repairs or alterations to such lift as he may deem necessary within such time as may be specified therein and may if necessary, also direct that the working of such lift be discontinued until such repairs or alterations are made. The owner shall thereupon comply with any such direction within the period specified therein and shall forthwith report in writing to the Inspector, his compliance with such direction.

(3) Any person aggrieved by any order or direction made under sub-section (2) may, within thirty days from the date of receipt of such order, appeal to the Appellate Authority appointed in this behalf by the Government.

(4) Notwithstanding any appeal made under sub-section (3), any direction for the discontinuance of the working of a lift made under sub-section (2) shall be complied with unless the Appellate Authority has stayed such direction.

(5) The order made under sub-section (2), subject to an appeal to the Appellate Authority, shall be final.

12. Every owner of a place which is entered upon in pursuance of sub-section (1) of section 11 by the Inspector or the person appointed under section 14 shall afford every reasonable facility to such Inspector or person to perform any function which such Inspector or person is authorised under that section to perform and shall, at his own cost, procure at such inspection, the attendance of the person, if any, to whom the work of erection, addition, alteration or maintenances of the lift installation has been entrusted or a representative of such person, as the case may be, who is competent to guide the Inspector or the person in the inspection.

Owner to
give
facilities
for
inspection.

13. Where any accident occurs in the working of any lift which results or is likely to result in loss of life or injury, the owner of the place shall, as soon as may be, after such accident, give notice of the occurrence and of any such loss or injury together with full details of accident in such form as may be prescribed, to the Inspector and also to the Commissioner of Police in the City of Chennai, Madurai or Coimbatore and elsewhere to the District Magistrate or such other officer as the Government may by order specify in this behalf and the lift installation shall not be interfered within any way and the working of such lift shall not be resumed except with the written permission of the Inspector.

Report of
accidents.

14. (1) The Government may, appoint such number of technical and other persons as may be necessary, possessing such qualifications as may be prescribed to assist the Inspector.

Persons to
assist
Inspector.

(2) The powers and functions and other terms and conditions of service of persons appointed under sub-section (1) shall be such as may be prescribed.

15. Whoever contravenes any of the provisions of this Act or the rules made thereunder or the terms and conditions of a permission or of a licence or a direction given by the Inspector or any person appointed under section 14 to assist him shall be punishable with fine which may extend to one thousand rupees and in the case of a continuing contravention with a further fine which may extend to fifty rupees for every day during which such contravention is continued after such conviction. Penalty.

16. (1) Where an offence punishable under this Act has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. —For the purposes of this section.—

(a) "company" means any body corporate and includes a firm, or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

17. No court shall take cognizance of any offence punishable under this Act except upon a complaint made by the Inspector having jurisdiction within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector. Cognizance of offences.

18 Every notice, order or other document required or authorised to be addressed by or under this Act shall be deemed to be properly addressed, if addressed to the owner of the place (naming the place) and may be served by post or left,—

(a) where a local authority is the addressee, at the office of the local authority;

(b) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the principal place of business of the company in India; and

(c) where any other person is the addressee, at the usual or last known place of abode or business of the person.]

19. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done by or under this Act.

20. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

21. Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910 and of the Electricity (Supply) Act, 1948. Central Act IX of 1910.

Service of notices, orders or documents.

Protection of action taken in good faith.

Power to remove difficulties.

Saving.



TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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Central Act
LIV of 1948.

22. (1) The Government may make rules to carry out all or any of the purposes of this Act.

Power to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) specifications for lifts;
- (b) the manner in which erection plans of lifts shall be submitted;
- (c) the manner in which the lifts may be tested;
- (d) the form of application for permission for the erection of a lift and a licence for working such lift;
- (e) the form of report of completion to be sent under sub-section (4) of section 4;
- (f) the terms and conditions and restrictions subject to which and the form in which the licence may be granted for the working of a lift and the fees to be paid in respect of such licence;
- (g) the manner in which and the terms subject to which the lifts shall be worked;
- (h) the manner in which notice of accidents shall be given;
- (i) the form of notice of accidents to be given under section 13; and
- (j) any other matter which is required to be, or may be, prescribed.

23. (1) (a) All rules made under this Act and all orders issued under section 20 shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day, on which they are so published.

Rules, orders
and notifica-
tions to be
placed before
the Legislative
Assembly

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which, they are published.

(2) Every rule made and every notification issued under this Act and every order made under section 20 shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be, without prejudice to the validity of anything previously done under that rule or notification or order.

(By order of the Governor)

A. K. RAJAN,
Secretary to Government,
Law Department.