

## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Tuesday, 22 November 1983

## FUNICULAR TRAMWAYS BILL

Hon. Mr GAIR, in Committee, to move the following amendments:

To omit the Title, and substitute the following Title:

**An Act to amend the Boilers, Lifts, and Cranes Act 1950**

To omit from *clause 1* the words "Funicular Tramways Act 1983." and substitute the words "Boilers, Lifts, and Cranes Amendment Act 1983, and shall be read together with and deemed part of the Boilers, Lifts, and Cranes Act 1950\* (hereinafter referred to as the principal Act)."

To add to *clause 1*, as *subclause (2)*, the following subclause:

(2) This Act shall come into force on the 1st day of January 1984.

\*1950, No. 53 (Reprinted R.S. Vol. 1, p. 377)  
Amendment: 1980, No. 101

To omit *clauses 2 to 8*, and substitute the following clauses:

**2. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by inserting, in the appropriate alphabetical order, the following definitions:

“‘Cableway’ means a passenger ropeway that is not a ski-tow:

“‘Device’ means a funicular tramway or ski-tow:

“‘Funicular tramway’ means a tramway comprising stationary winding machinery and controls, and 2 carriages operating on an incline on rails whose propulsion is by means of a pulley-driven connecting rope fixed permanently to each carriage, and in whose operation the weight of one carriage is offset against the weight of the other:

“‘Passenger ropeway’ means an aerial ropeway to which the motion of a prime mover is transmitted, and which is used, or designed or intended to be used, for the conveyance of passengers; and includes the prime mover and any transmission machinery, supporting structure, and equipment, used or intended to be used in connection with that ropeway:

“‘Ski-tow’ means a passenger ropeway whose passengers are conveyed, or are intended to be conveyed, while wearing skis that are in contact with the surface below that ropeway:

“‘Skis’ includes equipment that, in relation to crossing grass, or ground not covered by ice or snow, performs functions similar to those performed by skis in relation to crossing ice or snow.”

(2) The said section 2 (1) is hereby further amended—

(a) By adding to the definition of the term “lift” the words “and includes a cableway”:

(b) By inserting in the definition of the term “owner”, after the word “boiler”, in both places where it appears, the word “, device.”.

(3) The principal Act is hereby consequentially amended—

(a) By inserting in sections 4 (1) (b), 6, 16, 20, 31, 33, 34 (2), 35 (1), and 53 after the word “boiler”, wherever it appears, the word “, device.”:

(b) By inserting in sections 3, 4, and 53, after the word “boilers”, wherever it appears, the word “, devices.”:

(c) By inserting in subsections (1) and (2) (a) of section 27, before the word “machinery”, wherever it appears, the words “device or”:

(d) By inserting in section 27 (2) (b), before the word “machinery”, the word “device.”:

(e) By inserting in section 34 (1)—

(i) Before the word “machinery”, where it first appears, the words “any device or”:

(ii) After the word “boiler”, where it secondly appears, the word “, device.”.

**3. New provisions inserted relating to funicular tramways and ski-tows**—The principal Act is hereby amended by inserting, after section 30A (as inserted by section 9 of the Boilers, Lifts, and Cranes Amendment Act 1966), the following heading and sections:

*“Funicular Tramways and Ski-tows*

**“30B. Owner to appoint manager**—The owner of a device shall take all reasonable steps to ensure that—

“(a) There is at all times a manager appointed in respect of that device; and

“(b) Whenever a manager is appointed in respect of that device, the name of that manager is forthwith notified in writing to the Secretary.

**“30c. Devices to be provided with proper equipment, etc.**—(1) The owner of a device shall take all reasonable steps to ensure that—

“(a) That device and, in the case of a device that is a funicular tramway, every carriage on that device, is at all times provided with all such equipment, appliances, and furnishings as, in the opinion of the Secretary, are sufficient to ensure the safety of the owner’s employees, of passengers on that device, and of the general public; and

“(b) That device, that equipment, and those appliances and furnishings are at all times properly maintained and repaired; and

“(c) There are regularly carried out all such inspections, maintenance, and works, and at such intervals, as will ensure the safety of the owner’s employees, of passengers on that device, and of the general public, and the safe operation of that device generally.

“(2) In deciding which equipment, appliances, and furnishings are sufficient as aforesaid, the Secretary shall take into account any relevant standard promulgated by the International Organisation for Standardisation, and any other relevant standard the Secretary thinks fit.

“30D. Annual report by manager—(1) The manager for the time being of every device shall—

“(a) Make a written record of all inspections, maintenance, and works carried out in respect of that device; and

“(b) Retain every such record made in respect of that device.

“(2) Not later than the 1st day of March in every year, the manager for the time being of every device shall supply to the owner of that device a written report describing the inspections, maintenance, and works, carried out in respect of that device during the year that ended with the preceding 31st day of December; and that owner shall retain every such report, and supply a copy of it to the Secretary.

“30E. Drivers and operators to be adequately trained—

(1) The manager of a funicular tramway shall ensure that no person drives any carriage of that tramway unless that manager is satisfied that that person has been adequately trained in the driving of carriages of its type and is a suitable person to drive such carriages.

“(2) The manager of a ski-tow shall ensure that no person operates that ski-tow unless that manager is satisfied that that person has been adequately trained in the operation of ski-tows of its type and is a suitable person to operate such a ski-tow.”

**4. General penalty**—Section 55 (2) of the principal Act is hereby amended by adding the words “and, where the offence is a continuing one, to a further fine not exceeding \$100 for every day upon which the offence has continued”.

**5. Consequential amendments, repeals, and revocations**—(1) The enactments specified in the first column of the First Schedule to this Act are hereby consequentially amended in the manner indicated in the second column of that schedule.

(2) The enactments specified in the Second Schedule to this Act are hereby consequentially repealed.

(3) Section 4 (3) of the principal Act is hereby consequentially amended by omitting the words “or the powers of inspection and regulation of machinery, air cylinders, and braking systems of tramways contained in the Tramways Act 1908”.

(4) The Tramway Carriage Regulations 1979\* are hereby amended in the manner indicated in the Third Schedule to this Act, and (as so amended) are hereby deemed to have been made pursuant to section 21AA of the Machinery Act 1950 (as inserted by subsection (1) of this section), and to be capable of being amended or revoked accordingly.

(5) The Tram Drivers Regulations 1947† are hereby revoked.

\*S.R. 1979/6

†S.R. 1947/22

To omit from the *First Schedule* the expression "Section 8 (1)", and substitute the expression "Section 5 (1)".

To omit from the said Schedule the proposed amendments to the Machinery Act 1950, and insert, before the proposed amendments to the Tramways Amendment Act 1959, the following:

1950, No. 52—The  
Machinery Act 1950  
(Reprinted 1972, Vol. 3,  
p. 2543

By inserting in section 2, in the appropriate alphabetical order, the following definitions:

"'Funicular tramway' has the meaning assigned to that term by section 2 of the Boilers, Lifts, and Cranes Act 1950:

"'Ski-tow' has the meaning assigned to that term by section 2 of the Boilers, Lifts, and Cranes Act 1950:"

By inserting in paragraph (a) of section 3 (1) (as substituted by section 3 (1) of the Machinery Amendment Act 1970), after the word "engine," where it first appears, the words "funicular tramway, ski-tow,"

By omitting from paragraph (c) of the said section 3 (1) the word "Any", and substituting the words "Except to the extent provided in section 21AA of this Act, or in any regulations made under that section, any".

By inserting, after section 21A, the following section:

"21AA. Museum tramways—(1) In this section, unless the context otherwise requires,—

"'Component' means a museum tramway carriage, tramway electrical installation, or tramway track:

"'Museum tramway carriage' means any item of tramway rolling stock used or intended to be used (otherwise than as a permanently immobile installation) as part of or in connection with a tramway museum or historic display or demonstration:

"'Tramway electrical installation' means the electrical installation (if any) used or intended to be used in connection with a museum tramway carriage:

"'Tramway track' means the track used or intended to be used in connection with a museum tramway carriage.

"(2) Every person commits an offence against this Act who operates any museum tramway carriage, unless—

"(a) It, and the tramway track and any tramway electrical installation used in connection with it, are each registered under this section; and

"(b) A certificate of registration under this section is in force in respect of each of them.

"(3) Application for the registration under this section of any component shall be made in the prescribed form to the Inspector by or on behalf of its owner, and shall be accompanied by documentary evidence—

"(a) If it is a museum tramway carriage, that it can be used; and

"(b) If it is a tramway electrical installation or tramway track, that a carriage can be used in connection with it,—

without danger to the driver of that carriage, passengers carried on it, or persons in its vicinity.

"(4) If the Inspector is of the opinion that an application is in order, he shall issue to the applicant, either unconditionally or subject to such conditions as are specified in it, a certificate of registration in the prescribed form.

"(5) Unless sooner revoked under regulations made under this Act, every certificate of registration shall expire either 2 years, or such lesser period as is specified in it, after the date of its issue.

"(6) Where a registered component is materially altered or is repaired after suffering damage necessitating repair by welding or by the replacement of a load-bearing part other than a bolt, the owner shall notify the Inspector, who may require the owner, before using the component, to produce evidence that the component can be safely used.

"(7) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- "(a) Prescribing fees payable in respect of the issue or renewal of registration certificates under this section:
- "(b) Prescribing the form and nature of evidence required to accompany applications for such certificates:
- "(c) Prescribing conditions to which such certificates shall be subject:
- "(d) Prescribing duties in respect of the owners and operators of components:
- "(e) Prescribing minimum ages for drivers of museum tramway carriages:
- "(f) Requiring changes of ownership of components to be notified:
- "(g) Prescribing circumstances in which components are to be inspected or examined:
- "(h) Requiring the owners of components to inspect or examine them in specified circumstances and keep records of each inspection or examination:
- "(i) Imposing general duties on owners or operators of components or both of them:
- "(j) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this section."

To omit from the *First Schedule* the proposed amendment to the Ministry of Transport Act 1968.

To omit from the *Second Schedule* the expression "Section 8 (2)", and substitute the expression "Section 5 (2)".

To omit from the *Third Schedule* the expression "Section 8 (3)", and substitute the expression "Section 5 (4)".

To omit from the proposed new definition of the term "Inspector" in the *Third Schedule* the word "Factories", and substitute the word "Machinery".

## EXPLANATORY NOTE

The above amendments would effectively transform the Funicular Tramways Bill into a new Bill—the Boilers, Lifts, and Cranes Amendment Bill.

The Bill as introduced has 4 broad effects: it specifies a limited safety regime for funicular tramways and provides for that regime's administration by the Ministry of Transport rather than the Ministry of Works and Development as at present, amends the Machinery Act 1950 to provide for the control of safety of museum tramways by regulations made under that Act and administered in the Department of Labour, retains the Tramways Amendment Act 1910 and its amendments and provides for the administration of those Acts and the Boards of Appeal created under them by the Department of Justice, and repeals the Tramways Act 1908 and its amendments (other than Tramways Amendment Act 1910 and its amendments).

The Bill as amended would retain the funicular tramway safety regime, as part of the Boilers, Lifts, and Cranes Act 1950 rather than as a separate Act, would have all the other effects of the Bill as introduced, but would in addition:

- (a) Apply to ski-tows (including those operating in relation to grass-skiing) a limited safety regime of the same sort as that proposed for funicular tramways:
- (b) Extend the definition of "lift" to cover chairlifts, mountain gondolas, and the like:
- (c) Provide that the safety of both ski-tows and chairlifts, etc., is to be administered in the Ministry of Transport:
- (d) Amend section 55 (2) of the Boilers, Lifts, and Cranes Act 1950 so as to provide a fine of up to \$100 per day for continuing offences against that Act.