

# *The Passenger and Freight Elevator Act*

*being*

Chapter P-4 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1983, c.66; 1988-89, c.42; 1998, c.P-42.1; 2010, c.T-9.2; 2019, c.13; and 2020, c.31.*

**NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER P-4

### An Act respecting Passenger and Freight Elevators and other Hoisting Appliances

#### Short title

1 This Act may be cited as *The Passenger and Freight Elevator Act*.

#### Interpretation

2 In this Act:

- (a) “**chief inspector**” means the chief inspector appointed under section 5;
- (b) “**contractor**” means a person, firm or corporation constructing, installing, altering, repairing, maintaining, servicing or testing elevators or parts thereof;
- (c) **Repealed.** 2019, c 13, s.7.
- (d) “**elevator**” means any apparatus, appliance or device used for lifting or lowering persons or material from one permanent level, floor or landing to another;
- (e) “**inspector**” means an inspector appointed under section 5 and includes the chief inspector;
- (f) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (f.1) “**ministry**” means the ministry over which the minister presides;
- (g) “**operator**” means a person whose regular employment is the operation of an elevator or who operates an elevator as part of his regular employment and includes an owner who at any time or for any reason has occasion to operate an elevator;
- (h) “**owner**” means a person, firm or corporation operating or in charge of an elevator as owner, tenant, sub-tenant or agent and includes the manager or other head officer of the business of such firm or corporation.

R.S.S. 1978, c.P-4, s.2; 1988-89, c.42, s.72; 2019, c 13, s.7.

#### Interpretation and administration of Act – safety standards agreement

2.1(1) In this section, “**safety standards agreement**” means a safety standards agreement entered into pursuant to *The Technical Safety Authority of Saskatchewan Act* respecting this Act.

(2) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, this Act and the regulations are to be interpreted subject to the provisions of *The Technical Safety Authority of Saskatchewan Act* and the safety standards agreement.

2010, c.T-9.2, s.33.

**Application of Act**

3(1) This Act applies to all elevators that are within, or subject to, the legislative authority of the province except such elevators as are excluded by the regulations.

(2) The chief inspector may give notice in writing to the owner of any apparatus in the nature of an elevator or of any elevator excluded by the regulations from the application of this Act, and which is within, or subject to, the legislative authority of the province, that the provisions of this Act or the regulations specified in the notice shall apply to such apparatus or elevator, and thereupon such provisions shall so apply unless withdrawn by subsequent notice in writing.

R.S.S. 1978, c.P-4, s.3.

**Licences**

4(1) No owner by himself or by an agent or employee shall operate an elevator or cause or permit it to be operated by any person unless the owner holds a valid and subsisting elevator licence in respect thereof issued pursuant to this Act and the regulations.

(2) An elevator licence shall set forth the maximum carrying capacity of the elevator as rated pursuant to section 7, and no person shall operate an elevator or cause or permit it to be operated with a load in excess of such maximum carrying capacity.

(3) No person, firm or corporation shall construct, install, alter or repair an elevator, or any part thereof that may affect the safety of the elevator, unless he holds a valid and subsisting contractor's licence issued pursuant to this Act and the regulations.

(4) Every licence shall be issued by the ministry on the recommendation of the chief inspector, and an application for a licence shall be in a form prescribed by the chief inspector and accompanied by the fee prescribed by the regulations.

(5) The non-production of a licence on demand shall be *prima facie* evidence that the person concerned has no licence.

R.S.S. 1978, c.P-4, s.4; 2019, c 13, s.7.

**Inspectors**

5(1) There may be appointed a chief inspector and such other inspectors as may be necessary from time to time for the purposes of this Act.

(2) No person shall be appointed to the office of chief inspector or inspector who is interested either directly or indirectly in the sale of elevators or elevator equipment.

R.S.S. 1978, c.P-4, s.5; 1998, c.P-42.1, s.42; 2010, c.T-9.2, s.33.

**Duties of inspectors**

**6(1)** It shall be the duty of an inspector, subject to the instructions of the chief inspector, to inspect periodically every elevator within his district and to inspect forthwith any such elevator that he has reason to believe is unsafe.

**(2)** An inspector when making an inspection shall satisfy himself:

(a) by thorough examination that all provisions of this Act respecting the elevator and its design, construction, installation, operation and maintenance have been and are being complied with, that the maximum carrying capacity of the elevator as rated pursuant to section 7 is not being exceeded and that the elevator may be and is being safely operated;

(b) that the overspeed governor, car safeties, hoistway limit switches and similar or related appliances that operate only in case of emergency are in good condition and free to operate, that all hoistway doors, car gates, interlocks and other related safety devices are in good working order and are being used in a proper manner and that these and all other devices, apparatus and equipment affecting the safe operation of the elevator are in good condition;

(c) that all repairs, alterations and replacements previously ordered have been made or arranged for and that all directions or instructions previously given regarding the operation of the elevator are being complied with;

(d) that all persons having occasion to operate the elevator are competent;

(e) that the owner has a valid and subsisting elevator licence and that the licence is posted as required by the regulations.

R.S.S. 1978, c.P-4, s.6.

**Rating maximum carrying capacity**

**7** An inspector shall rate the maximum carrying capacity of every elevator in respect of weight or number of passengers carried at its original design capacity with due reduction for poor construction, age, deterioration and like considerations.

R.S.S. 1978, c.P-4, s.7.

**Powers of inspectors**

**8** For the purposes of this Act an inspector may:

(a) at any reasonable time by day or night enter any building or upon any property in or upon which he has reason to believe an elevator has been or is being installed or is being operated, for the purpose of inspecting the elevator and the operation thereof and of determining whether this Act and the regulations have been and are being complied with;

(b) by notice in writing signed by him, require the attendance of any person before him at a time and place to be named in the notice and examine that person on oath or otherwise regarding any matter pertaining to the inspection, construction, installation, testing, operation, maintenance or repair of any elevator or any accident arising out of the use or operation thereof;

- (c) require the owner or any person in charge of an elevator or any contractor installing, altering, repairing, maintaining, servicing or testing an elevator to furnish within a specified time a written statement giving such information as the inspector may deem necessary respecting the elevator, the operation or repair thereof and the operators or other persons employed in connection therewith;
- (d) require any person designated in clause (c), either forthwith or within such time as the inspector may prescribe, to make the elevator available for inspection, for testing or for any other purpose that the inspector deems necessary;
- (e) require any person designated in clause (c) to place a man or men at his disposal to assist in making an inspection or for any other purpose that the inspector deems necessary;
- (f) give instructions orally or in writing to any person designated in clause (c) respecting the construction, installation, testing, operation, maintenance or repair of the elevator and require that those instructions shall be carried out either forthwith or within a specified time;
- (g) instruct any person designated in clause (c) to cease forthwith the operation, installation, alteration or repair of an elevator that the inspector has reason to believe is being operated, installed, altered or repaired in an unsafe or improper manner or in a manner which is not in accordance with this Act and the regulations, and the inspector's instructions shall forthwith be carried out and further operation, installation, alteration or repair of the elevator shall not proceed without permission in writing from the inspector;
- (h) condemn any elevator that in his opinion may no longer be operated safely or is obsolete;
- (i) require the owner or a person in charge of an elevator, either forthwith or within such time as the inspector may prescribe, to replace any person engaged in the operation thereof who in the opinion of the inspector is negligent or incapable of operating the elevator in a safe and proper manner.

R.S.S. 1978, c.P-4, s.8.

**Defects in elevator to be made known**

**9** When an elevator is being inspected, the owner or person in charge thereof or a contractor installing, altering, repairing, maintaining, servicing or testing the elevator shall point out to the inspector any defect of which he has knowledge or that he believes to exist in the elevator, and if at any other time such person learns of a defect that might render the elevator unsafe to operate he shall forthwith notify the ministry.

R.S.S. 1978, c.P-4, s.9; 2019, c 13, s.7.

**Inspection reports**

**10(1)** Upon completion of an inspection, the inspector shall furnish to the owner or his representative an inspection report setting forth the condition of the elevator, and the inspector may in his report require that such repairs, alterations or replacements as he deems necessary be made and may prescribe a time for the completion thereof.

(2) The owner shall cause any repairs, alterations or replacements set forth in an inspection report to be made within the prescribed time or, where no time has been prescribed, within a reasonable time, and shall within thirty days after receipt of the report notify the ministry in writing of the arrangements that have been made to comply with the requirements set forth in the report.

R.S.S. 1978, c.P-4, s.10; 2019, c 13, s.7.

**Order to correct**

**10.1** If, after conducting an inspection, an inspector considers that an elevator does not meet the requirements pursuant to this Act or the regulations or that an elevator is otherwise unsafe, the inspector may, by order in writing, direct the owner to make, or cause to be made, any maintenance, repairs, alterations or replacement of parts that the inspector considers necessary, within the period specified by the inspector.

2019, c 13, s.7.

**Discipline order**

**10.2(1)** In this section, “**regulated work**” means any work, process or activity respecting elevator installations and elevator equipment.

(2) The chief inspector may issue a discipline order pursuant to this section against any person who:

- (a) is in contravention of this Act or the regulations;
- (b) fails to comply with a compliance order pursuant to section 10.1 or 18.4;
- (c) fails to comply with a term or condition of a licence; or
- (d) is performing work regulated by this Act for which the person is not licensed, or undertakes regulated work that the person is not qualified to undertake.

(3) A discipline order mentioned in subsection (2) must:

- (a) be in writing and in the form approved by the minister;
- (b) contain a description of the action to be undertaken by the person;
- (c) cite the contravened provision of this Act or of the regulations;
- (d) subject to subsection (5), require the person to undertake the action within a period specified in the order that is not less than 30 days from the time the person receives the order; and
- (e) be served on the person to whom the order is directed as soon as is practicable after it is issued.

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- (4) The penalty may consist of any sanction the chief inspector considers necessary, including the following:
- (a) that specified training or education be completed within a specified period;
  - (b) that practices involving the regulated work be stopped or modified;
  - (c) that advertising, display or disposal of regulated work be stopped or modified;
  - (d) that advertising or display of regulated work be reported to the chief inspector for a specified period;
  - (e) that any person performing regulated work act only under supervision or as directed in the order;
  - (f) that any other action by a person be taken, modified or stopped if necessary to prevent, avoid or reduce risk of personal injury or damage to property;
  - (g) that reports on any of the actions listed in the discipline order be made to the chief inspector.
- (5) For the purposes of clause (3)(d), if the action requires ongoing reporting to the chief inspector, the order must set a period of not more than one year in which the reporting of the action must be completed.

2019, c 13, s.7.

**Appeal to chief inspector**

**10.3(1)** Any person aggrieved by a notice, order, decision, requirement or direction of an inspector may, within 30 days after the date of the notice, order, decision, requirement or direction, appeal to the chief inspector by:

- (a) serving the chief inspector with a written notice setting forth the nature of the person's grievance; or
  - (b) notifying the chief inspector orally or otherwise and confirming that notification with a written notice setting forth the nature of the person's grievance.
- (2) The chief inspector shall consider the appeal and give the appellant an opportunity to be heard:
- (a) within 7 days after receiving notice of the appeal in the case of an appeal launched within 2 days after the date of the notice, order, decision, requirement or direction being appealed against; or
  - (b) within 30 days after receiving notice of the appeal in any other case.
- (3) The chief inspector may conduct further inquiries respecting the subject of the grievance.
- (4) The chief inspector may allow the appeal or affirm or vary the notice, order, decision, requirement or direction of the inspector.

(5) The chief inspector shall provide written reasons for the chief inspector's decision.

(6) An appeal pursuant to this section does not operate as a stay of the notice, order, decision, requirement or decision being appealed, but the chief inspector may stay its operation pending the disposition of the appeal.

2019, c 13, s.7.

**Unsafe elevator may be sealed or licence cancelled**

**11(1)** Where, in the opinion of an inspector, an elevator is in an unsafe condition or is being operated in a dangerous manner or where instructions given by an inspector under clause (f) of section 8 are not being complied with, or where repairs, alterations or replacements set forth in an inspection report are not made within the prescribed time or; where no time has been prescribed, within a reasonable time:

(a) the minister may suspend or cancel the licence issued in respect of the elevator; or

(b) the inspector may, on the instructions of the chief inspector, seal the elevator and prohibit its use.

(2) Where, pursuant to subsection (1), an elevator licence has been suspended or cancelled or an elevator has been sealed and its use prohibited, no person shall operate the elevator or cause or permit it to be operated or destroy, remove or tamper with the inspector's seal unless permission in writing has first been obtained from the chief inspector and, where the elevator licence has been cancelled, unless a new licence has been issued after payment of the fee prescribed by the regulations.

R.S.S. 1978, c.P-4, s.11.

**Condemned elevators**

**12** No person shall, without the written permission of the chief inspector, repair an elevator that has been condemned by an inspector or operate it or cause or permit it to be operated.

R.S.S. 1978, c.P-4, s.12.

**Sale, etc., of used elevators**

**13** No person shall, without the written permission of the chief inspector, sell, exchange or reinstall in a new location an elevator that has been previously used whether or not the elevator has been condemned by an inspector, but this section does not apply in respect of an elevator that is sold along with the building or premises in which it is located.

R.S.S. 1978, c.P-4, s.13.

**Elevators brought into the province**

**14** No person shall install or cause to be installed an elevator that has previously been used outside the province unless the design and construction thereof conform in every respect with this Act and the regulations and unless permission in writing has been obtained from the chief inspector.

R.S.S. 1978, c.P-4, s.14.

**Operation of elevators after being out of service**

**15** Where an elevator has been out of service for one year or more, whether or not the use thereof was discontinued voluntarily by the owner, no person shall operate that elevator or cause or permit it to be operated without first applying to the ministry for a special inspection of the elevator and receiving written permission for its operation from an inspector.

R.S.S. 1978, c.P-4, s.15; 2019, c.13, s.7.

**Reports of accidents**

**16(1)** On the occurrence of an accident involving an elevator and causing death or serious injury to a person, notice of the accident shall be sent forthwith by telephone or telegraph to the chief inspector by the owner or by a person acting on his behalf, stating the precise locality, the nature and extent of the accident, the time at which it occurred and the number of persons killed or injured.

(2) On receipt of such report, the chief inspector shall cause such investigation as he deems necessary to be made as to cause and circumstances of the accident.

(3) After the occurrence of any such accident no person shall operate the elevator involved or cause or permit it to be operated without permission in writing from an inspector.

R.S.S. 1978, c.P-4, s.16.

**Inspections by persons other than an inspector**

**17** No person making inspections on behalf of an insurance company or an owner shall classify any elevator or part thereof as being in a safe or good condition that has been otherwise classified by an inspector, without first obtaining permission in writing from the chief inspector.

R.S.S. 1978, c.P-4, s.17.

**Regulations**

**18(1)** The Lieutenant Governor in Council may make regulations:

- (a) prescribing conditions respecting the design, registration of designs, construction, installation, testing, operation, maintenance, repair and inspection of elevators, and governing the classification of elevators and all equipment used in connection therewith;
- (b) prescribing the conditions under which elevator and contractors' licences may be issued;
- (c) fixing the minimum age of operators;
- (d) governing the duration, transfer, suspension, cancellation, withdrawal and posting of licences;

- (e) prescribing the fees to be paid for licences and for the examination or registration of designs and the fees or other charges or both to be paid for inspections of elevators at the time of installation, reconstruction, alteration or repair, for special inspections and for copies of inspection reports furnished to persons other than owners;
- (f) excluding any elevator or class of elevators from the application of this Act;
- (g) adopting and constituting as regulations with respect to any of the matters mentioned in clauses (a), (b), (c), (d) and (e):
  - (i) any relevant codes, rules or standards; or
  - (ii) such codes, rules or standards with the exception of any specified provisions thereof; or
  - (iii) any specified provisions of such codes, rules or standards; and
  - (iv) any amendments to such codes, rules or standards, with or without modification;

either in place of or in addition to any regulations made under clauses (a), (b), (c), (d) and (e) or any of them;

(h) for the purposes of section 18.6, prescribing other means of service.

(2) All regulations shall, upon their publication in *The Saskatchewan Gazette* or upon such later date as may be named therein for the purpose, have the same force and effect as if incorporated herein, but where exceptional circumstances exist rendering strict compliance with a regulation impracticable the chief inspector may, subject to such conditions as he may prescribe, grant special exemptions in individual cases if satisfied that the exemptions are not inconsistent with safe practice.

R.S.S. 1978, c.P-4, s.18; 1983, c.66, s.17; 2019, c13, s.7.

#### **Administrative penalties**

**18.1(1)** The chief inspector may assess a penalty against a person for contraventions of this Act and the regulations or for failure to comply with an order pursuant to this Act.

(2) The penalty may consist of:

- (a) a single monetary amount not exceeding \$5,000;
- (b) a daily amount not exceeding \$1,000 for each day the infraction continues; or
- (c) a combination of clauses (a) and (b).

(3) Before assessing a penalty, the chief inspector shall provide notice to the person:

- (a) setting out the facts and circumstances that, in the chief inspector's opinion, render the person liable to a penalty;
- (b) specifying the amount of the penalty that the chief inspector considers appropriate in the circumstances; and
- (c) informing the person of the person's right to make representations to the chief inspector.

- (4) No penalty is to be assessed by the chief inspector more than three years after the act or omission that renders the person liable to a penalty first came to the knowledge of the chief inspector.
- (5) A person to whom notice is sent pursuant to subsection (3) may make representations to the chief inspector respecting whether a penalty should be assessed and the amount of any penalty.
- (6) Representations pursuant to subsection (5) must be made within 30 days after the person received the notice.
- (7) After considering any representations, the chief inspector may:
- (a) assess a penalty in the amount set out in the notice and set a date by which the penalty is to be paid in full;
  - (b) assess a revised penalty and set a date by which the penalty is to be paid in full; or
  - (c) determine that no penalty should be assessed.
- (8) The chief inspector shall serve a copy of the decision pursuant to subsection (7), with reasons, on the person who made the representations.
- (9) The chief inspector may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of the person required to pay the penalty.
- (10) If a corporation commits a contravention mentioned in subsection (1), the chief inspector may, in accordance with this section, assess a penalty against an officer, director or other person of the corporation who authorized, permitted or acquiesced in the contravention, even though the corporation is liable for or pays an administrative penalty.

2019, c 13, s.7.

**Enforcement of administrative penalty**

**18.2(1)** The chief inspector may file in the Court of Queen's Bench a certificate signed by the chief inspector and setting out:

- (a) the amount of the penalty assessed pursuant to subsection 18.1(7); and
  - (b) the person from whom the penalty is to be recovered.
- (2) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.

2019, c 13, s.7.

**Appeal to Court of Queen's Bench re administrative penalty**

**18.3(1)** Any person aggrieved by a decision of the chief inspector to assess a penalty against that person pursuant to section 18.1 may appeal that decision on a question of law to a judge of the Court of Queen's Bench within 30 days after the date of service of the chief inspector's decision.

- (2) The record of an appeal pursuant to subsection (1) consists of:
- (a) the chief inspector's decision;
  - (b) any written representations made to the chief inspector by the person named in the decision;
  - (c) the notice of motion commencing the appeal;
  - (d) any other documents or material prescribed in the regulations; and
  - (e) any other material that the Court of Queen's Bench may require.
- (3) On hearing an appeal pursuant to this section, the judge of the Court of Queen's Bench may issue an order:
- (a) confirming the penalty;
  - (b) amending the amount of the penalty; or
  - (c) quashing the chief inspector's decision to assess a penalty.

2019, c 13, s.7.

**Court-ordered compliance**

**18.4(1)** The chief inspector may apply to a judge of the Court of Queen's Bench for all or any of the following:

- (a) an order compelling a person to comply with this Act, the regulations, an order issued pursuant to this Act or the regulations, or the terms and conditions of a licence;
  - (b) an order enjoining any person from proceeding contrary to this Act, the regulations, an order issued pursuant to this Act or the regulations, or the terms and conditions of a licence.
- (2) On an application pursuant to this section, the judge of the Court of Queen's Bench may make the order requested or any other order that the judge considers appropriate on any terms and conditions that the judge considers appropriate.
- (3) The chief inspector may apply for an order pursuant to subsection (1) regardless of whether an order pursuant to this Act or the regulations has been issued with respect to the matter.

2019, c 13, s.7.

**Public notice**

**18.5** Notice of administrative penalties, discipline orders, court-ordered compliance, cancellation or suspension of a licence, or any other orders made pursuant to this Act may be published in any manner that the minister considers necessary to protect the public, including posting the notice on the ministry's website.

2019, c 13, s.7.

**Service of notice or documents**

**18.6(1)** Unless otherwise provided in this Act, any notice, order or document required by this Act or the regulations to be given or served is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served or by any other means prescribed in the regulations.

(2) A notice, order or document directed to the occupants of a premises that contains two or more units intended for separate occupancy is deemed to have been served on each occupant by posting a copy of the notice, order or document in a conspicuous place on the land or premises to which the notice, order or document relates.

(3) A notice, order or document served by ordinary mail or registered mail is deemed to have been received on the seventh business day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, the person did not receive the document or that the person received it at a later date.

(4) Irregularity in the service of a notice, order or document does not affect the validity of an otherwise valid notice, order or document.

2019, c 13, s.7.

**Penalties**

**19(1)** No person shall:

- (a) contravene any provision of this Act or the regulations for which no penalty is otherwise provided;
- (b) make a false or misleading statement in a communication, whether in writing or otherwise, to the minister, the ministry or an inspector;
- (c) interfere with or obstruct an inspector in the exercise of a power or the performance of a duty conferred or imposed on the person by this Act;
- (d) fail to comply with any order, notice, requirement or instructions given or made by the minister or an inspector pursuant to this Act;
- (e) operate an elevator of which the person is an owner or cause or permit it to be operated without having in the person's possession an elevator licence with respect to the elevator;
- (f) construct, install, alter or repair an elevator without having in the person's possession a contractor's licence; or
- (g) fail to pay a fee or other charge prescribed in the regulations.

(2) Every person who contravenes any provision of subsection (1) is guilty of an offence and liable on summary conviction:

- (a) in the case of an individual, to a fine of not more than \$25,000 and, in the case of a continuing offence, to a further fine of not more than \$5,000 for each day or part of a day during which the offence continues; and
- (b) in the case of a corporation, to a fine of not more than \$200,000 and, in the case of a continuing offence, to a further fine of not more than \$20,000 for each day or part of a day during which the offence continues.

(3) If a person is found guilty of contravening any provision of subsection (1), the convicting judge may, in addition to any other penalty imposed, order the person to do any act or work, within the time specified by the judge in the order.

(4) A person to whom an order is given pursuant to subsection (3) who fails to comply with the decision, order or directive within the specified time is guilty of an offence and liable on summary conviction:

(a) in the case of an individual, to a fine of not more than \$5,000 for each day during which the non-compliance continues; and

(b) in the case of a corporation, to a fine of not more than \$10,000 for each day during which the non-compliance continues.

2019, c 13, s. 7.

#### **Immunity**

**20** No action or proceeding lies or shall be commenced against the minister, the ministry, an inspector, an employee or agent of the ministry or any other person appointed to administer all or any of the provisions of this Act or the regulations, if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

2019, c 13, s. 7.

#### **Act binds Crown**

**21** The Crown is bound by this Act.

2020, c 31, s. 7-1.

