

BILL

No. 136

An Act establishing the Technical Safety Authority of Saskatchewan and respecting the Administration of Safety Statutes

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(Assented to)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I

Short Title and Interpretation

Short title

1 This Act may be cited as *The Technical Safety Authority of Saskatchewan Act*.

Interpretation

2 In this Act:

- (a) **“authority”** means the Technical Safety Authority of Saskatchewan established pursuant to section 3;
- (b) **“board”** means the board of directors for the authority established pursuant to section 8;
- (c) **“chairperson”** means the chairperson of the board;
- (d) **“fiscal year”** means the fiscal year of the authority established pursuant to section 18;
- (e) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (f) **“prescribed”** means prescribed in the regulations;
- (g) **“regulated work”** means any work, process or activity respecting:
 - (i) any amusement ride as defined in *The Amusement Ride Safety Act*;
 - (ii) any boiler, pressure vessel, plant or pressure piping system as defined in *The Boiler and Pressure Vessel Act, 1999*; or
 - (iii) any elevator as defined in *The Passenger and Freight Elevator Act*;
- (h) **“safety standards agreement”** means an agreement entered into pursuant to section 25;
- (i) **“safety statute”** means:
 - (i) *The Amusement Ride Safety Act* and the regulations made pursuant to that Act;
 - (ii) *The Boiler and Pressure Vessel Act, 1999* and the regulations made pursuant to that Act; and
 - (iii) *The Passenger and Freight Elevator Act* and the regulations made pursuant to that Act.

PART II

Authority

DIVISION 1

Authority Established

Authority established

3 The Technical Safety Authority of Saskatchewan is established as a not-for-profit corporation.

Authority not an agent of the Crown

4 The authority is not an agent of the Crown in right of Saskatchewan.

Membership

5(1) Subject to section 14, the authority consists of the following members:

- (a) two persons appointed by the Lieutenant Governor in Council; and
- (b) not less than three and not more than eight other persons appointed by the existing members in accordance with the bylaws.

(2) If a person appointed pursuant to clause (1)(a) ceases to be a member, the Lieutenant Governor in Council may:

- (a) appoint a person for the remainder of the term of the person who ceased to be a member; or
- (b) appoint a person for the term mentioned in subsection (4).

(3) The appointment of a person appointed pursuant to clause (1)(b) may be rescinded only by a resolution of more than two-thirds of the members, stating that they consider the person to have failed to adhere to the code of conduct or code of ethical behaviour established pursuant to section 13.

(4) Subject to subsection (5), a person appointed:

- (a) as a member pursuant to clause (1)(a) holds office at pleasure for a term not exceeding three years and until a successor is appointed; and
- (b) as a member pursuant to clause (1)(b) holds office for a term not exceeding three years and until a successor is appointed.

(5) No member shall hold office for more than two consecutive terms.

(6) If a member dies or resigns, the person ceases to be a member on the date of death or on the date on which the resignation is received by the board, as the case may be.

(7) A vacancy in the membership of the authority does not impair the power of the remaining members of the authority to act.

Purposes of authority

6 The purposes of the authority are:

- (a) to provide, in accordance with a safety standards agreement, regulatory, enforcement and advisory services respecting regulated work;
- (b) to carry out any duties and exercise any powers pursuant to a safety statute that are given to it in this Act and in a safety standards agreement; and
- (c) to undertake any other prescribed duties.

Powers of authority

7(1) The authority may:

- (a) enter into agreements with any government, person, agency, organization, institution or other body inside or outside Saskatchewan for any purpose that it considers expedient or desirable in the exercise of its powers or the performance of its responsibilities pursuant to this Act;

- (b) charge a fee established in its bylaws for any service it provides and for any matter governed by a safety statute;
 - (c) purchase, lease or otherwise acquire any real or personal property;
 - (d) sell, lease or otherwise dispose of its property;
 - (e) accept grants, donations, gifts and bequests of any property and, subject to the terms of the grant, donation, gift or bequest, sell or otherwise dispose of that property;
 - (f) accept moneys appropriated by the Legislature;
 - (g) establish bylaws that are consistent with its purposes, this Act and the regulations;
 - (h) establish and operate any facility, enterprise, program or undertaking that it considers conducive to the exercise of its powers or the performance of its responsibilities pursuant to this Act and charge any fee required for the operation of any facility, enterprise, program or undertaking permitted pursuant to this Act;
 - (i) carry on its activities inside or outside Saskatchewan; and
 - (j) do all those things that it considers necessary, incidental or conducive to the carrying out of its purposes.
- (2) The authority shall establish bylaws respecting the following matters:
- (a) establishing a process for making appointments as members of the authority pursuant to clause 5(1)(b);
 - (b) establishing a rate of remuneration and rate of reimbursement for expenses for members of the board;
 - (c) establishing the amount of a fee for any service it provides or respecting any matter governed by a safety statute.
- (3) The authority shall:
- (a) cause a notice of each bylaw mentioned in subsection (2) to be made public in any prescribed manner and in any other manner that the authority considers appropriate to bring the notice of the bylaw to the attention of the public; and
 - (b) provide a copy of each bylaw mentioned in subsection (2) to the minister, within 30 days after it is made.
- (4) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly a copy of each bylaw that the minister receives pursuant to clause (3)(b).
- (5) Notwithstanding any other Act or law, but subject to section 30, if a safety standards agreement is entered into respecting a safety statute:
- (a) the fees established by the authority by bylaw pursuant to this section are the fees that must be paid to the authority; and
 - (b) any fees prescribed in the regulations made pursuant to the safety statute do not apply.

DIVISION 2
Board and Committees

Board

- 8(1)** A board of directors for the authority is established.
- (2) The board consists of those persons appointed to constitute the membership of the authority pursuant to section 5.
- (3) The board shall manage the affairs and business of the authority.
- (4) A vacancy in the membership of the board does not impair the power of the remaining members of the board to act.

Chairperson and vice-chair person

- 9(1)** The board shall designate from its members:
- (a) a chairperson; and
 - (b) a vice-chairperson.
- (2) If the chairperson is absent or unable to act or the office of the chairperson is vacant, the vice-chairperson may exercise all of the powers and shall perform all of the duties of the chairperson.
- (3) The board may appoint other officers from its members.

Quorum

- 10** The quorum of the board is a majority of the members of the board then in office.

Voting

- 11** If there is a tie vote of members present at a meeting of the board, the chairperson shall cast a second and deciding vote.

Remuneration and reimbursement

- 12(1)** Board members, other than board members who are members of the public service of Saskatchewan, are entitled to remuneration for their services at rates established in the bylaws.
- (2) Board members are entitled to reimbursement for their expenses incurred in the performance of their responsibilities at the rates established in the bylaws.

Duties of board

- 13(1)** The board shall:
- (a) establish policies and procedures respecting how the board will conduct its affairs, carry out its responsibilities and exercise its powers;
 - (b) establish a code of conduct and a code of ethical behaviour for members of the board and employees of the authority;
 - (c) prepare and maintain a written record of all proceedings and decisions of the board and any committee of the board;
 - (d) establish, from the members, an audit committee to oversee the authority's finances; and
 - (e) subject to subsection (2), before the commencement of each fiscal year, prepare and make publicly available a business plan for the next three fiscal years.

(2) Within six months after the date on which this Act comes into force, the board shall prepare and make publicly available a business plan for the remainder of the fiscal year in which this Act comes into force and the next two fiscal years.

(3) The board shall provide the minister with a copy of its business plan required pursuant to clause (1)(e) or subsection (2) immediately after it is made.

(4) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly every business plan provided to the minister pursuant to subsection (3).

Restrictions re appointments

14(1) In this section, “**capacity**” means the ability:

- (a) to understand information relevant to making a decision; and
- (b) to appreciate the reasonably foreseeable consequences of making or not making a decision.

(2) A person is disqualified from being appointed and from acting as a member of the authority and as a member of the board if that person:

- (a) lacks capacity;
- (b) is a minor;
- (c) is convicted of an offence involving dishonesty; or
- (d) is an undischarged bankrupt.

(3) A member who is disqualified from acting as a member of the authority or as a member of the board must immediately resign.

Executive committee and committees

15(1) The board may:

- (a) appoint from its members an executive committee;
- (b) specify the term of a member of the executive committee;
- (c) by resolution, delegate to the executive committee any powers that it considers necessary for the efficient conduct of the affairs and business of the authority;
- (d) appoint from its members any committees that it considers necessary for the efficient conduct of the affairs and business of the authority; and
- (e) specify the duties of any committee it appoints.

(2) A member of the executive committee holds office until that member:

- (a) is removed by resolution of the board;
- (b) has served the term specified by the board; or
- (c) has ceased to be a member of the board.

(3) The executive committee may exercise any powers of the board that are delegated to it by resolution, subject to any restrictions contained in the resolution.

(4) The executive committee shall fix its quorum, which is not to be less than a majority of its members.

- (5) The executive committee shall:
- (a) keep minutes of its proceedings; and
 - (b) submit to the board, at each meeting of the board, the minutes of the executive committee's proceedings during the period since the most recent meeting of the board.

DIVISION 3

Chief Executive Officer and Employees

Staff

- 16**(1) The authority shall employ a chief executive officer.
- (2) The authority may determine the chief executive officer's duties and powers, conditions of employment and remuneration.
- (3) The authority may:
- (a) employ any officers, in addition to the chief executive officer, or other employees that it considers necessary for the conduct of its operations; and
 - (b) determine each officer's and employee's respective duties and powers, conditions of employment and remuneration.
- (4) The authority has control over and shall supervise its officers and employees.

Superannuation and other plans

- 17** The authority may establish and support any or all of the following for the benefit of the chief executive officer and employees and the dependants of the chief executive officer and employees:
- (a) a superannuation plan;
 - (b) a group insurance plan; and
 - (c) any other pension, superannuation or employee benefit program.

DIVISION 4

Finance

Fiscal year

- 18** The fiscal year of the authority is the period commencing on July 1 in one year and ending on June 30 of the following year.

Investment

- 19** The authority may:
- (a) invest any part of the capital or operating moneys of the authority in any security or class of securities authorized for investment of moneys in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and
 - (b) dispose of the investments in any manner on any terms and in any amount that the authority considers appropriate.

Borrowing powers

- 20(1)** The authority may borrow any moneys that it considers will be required to fund the operations of the authority or to fulfil the purposes of the authority in any manner and on any terms and conditions that it considers appropriate.
- (2) No loan pursuant to this section is to be guaranteed by the Minister of Finance.
- (3) The Government of Saskatchewan is not liable respecting the repayment of any loan pursuant to this section or any interest, principal or premium respecting the loan.

Audit

- 21(1)** The authority shall appoint an auditor who meets the qualifications mentioned in subsection (2) to audit the authority's records, accounts and financial statements:
- (a) annually; and
 - (b) at any other times the authority or the minister may direct.
- (2) Any person appointed as auditor pursuant to subsection (1) must:
- (a) be independent of:
 - (i) the authority; and
 - (ii) the directors and officers of the authority; and
 - (b) be a member in good standing of a recognized accounting profession that is regulated by an Act.

Annual report

- 22(1)** In each fiscal year, the authority shall submit to the minister, in accordance with *The Tabling of Documents Act, 1991*:
- (a) a report on the business of the authority for its preceding fiscal year; and
 - (b) a financial statement on the business of the authority for its preceding fiscal year.
- (2) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly each report and financial statement that the minister receives.
- (3) The authority shall cause the report and financial statement to be made public in any manner that the authority considers appropriate to bring the report to the attention of the public.

DIVISION 5

Temporary Administrator**Appointment of temporary administrator**

- 23(1)** The Lieutenant Governor in Council may appoint an administrator for a term specified by the Lieutenant Governor in Council to discharge the powers, duties and functions of the board if the minister is of the opinion that there is an immediate and direct threat to the ability of the board to function that could significantly compromise the administration of a safety statute in accordance with this Act, the safety statute or a safety standards agreement.

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- (2) On the appointment of an administrator, the members of the board cease to hold office unless otherwise ordered by the Lieutenant Governor in Council.
- (3) During the term of the administrator, the powers of any members of the board who continue to hold office are suspended unless otherwise provided by the Lieutenant Governor in Council.
- (4) The Lieutenant Governor in Council may specify one or more of the following:
- (a) the powers, duties and functions of an administrator appointed pursuant to this section;
 - (b) the terms and conditions for management of the property and affairs of the authority during the transition period preceding the end of the appointment of the administrator;
 - (c) that the administrator must use the process established in the bylaws to appoint members of the authority pursuant to clause 5(1)(b) and that the members appointed take office at the termination of the administrator's appointment.

DIVISION 6

Profits and Property

Profits and property

- 24(1)** Any profits or accretions to the value of the property of the authority shall be used to further its activities, and no part of the property or the profits of the authority may be distributed, directly or indirectly, to a member or director of the authority except as permitted pursuant to section 12.
- (2) If the authority is dissolved, after payment of all debts and liabilities, any remaining property of the authority shall be distributed to:
- (a) a person or body carrying on the same or similar activities;
 - (b) the Government of Saskatchewan or an agency of the Government of Saskatchewan; or
 - (c) any combination of the person or bodies mentioned in clauses (a) and (b).

PART III

Safety Standards Agreements

Safety standards agreement

- 25(1)** Notwithstanding any other Act or law, if a safety standards agreement is entered into respecting a safety statute, the administration of the safety statute is delegated to the authority, and the authority shall carry out the administration of the safety statute in accordance with this Act, the safety statute and the safety standards agreement, having regard to the purpose of this Act and the safety statute.
- (2) The minister and the authority shall enter into a safety standards agreement for the purposes of this Act.

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- (3) A safety standards agreement for a safety statute must include provisions that specify all of the following:
- (a) the expected safety outcomes to be achieved by the authority in its administration of the safety statute;
 - (b) the performance objectives of the authority;
 - (c) the acceptance by the authority of its responsibility to exercise the powers and fulfil the duties delegated to the authority;
 - (d) the right of access of the authority to records created by the Government of Saskatchewan and the right of access of the Government of Saskatchewan to records created by the authority;
 - (e) the rights of access by the public to records created by the authority;
 - (f) the requirements for records management by the authority;
 - (g) the requirement that the authority report to the Government of Saskatchewan any matters with respect to the exercise by it of the powers and the fulfilment by it of the duties delegated to the authority;
 - (h) the requirement that the authority carry adequate insurance;
 - (i) provisions for indemnification between the authority and the Government of Saskatchewan;
 - (j) the obligations of the parties if the agreement is terminated;
 - (k) the period of the agreement or the procedure for the review of the agreement by the authority and the Government of Saskatchewan;
 - (l) provisions for the settlement of disputes;
 - (m) a specification of the liability of the authority arising out of its carrying out the provisions of the agreement;
 - (n) any additional prescribed matters.
- (4) A safety standards agreement may include any other matters that the minister and the authority consider appropriate.
- (5) Without limiting the generality of section 4, the delegation to the authority of the administration of a safety statute in accordance with this section does not constitute the authority as an agent of the Crown in right of Saskatchewan.
- (6) Notwithstanding subsection (1), the power to make regulations pursuant to a safety statute may not be delegated to the authority.
- (7) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly every safety standards agreement entered into by the minister within 90 days after the agreement is entered into.

Matters arising from a safety standards agreement

26(1) In this section:

- (a) **“chief inspector”**, with respect to a safety statute, means a chief inspector appointed pursuant to a safety statute;
- (b) **“inspector”**, with respect to a safety statute, means an inspector or special inspector appointed pursuant to a safety statute.

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- (2) Notwithstanding any other Act or law but subject to subsection (3), if the minister and the authority enter into a safety standards agreement respecting a safety statute:
- (a) a reference in the safety statute to a chief inspector or inspector is deemed to be a reference to a person appointed or designated by the authority, and the person appointed or designated by the authority may exercise the powers of, and shall fulfil the duties imposed on, the chief inspector or an inspector, as the case may be, pursuant to a safety statute;
 - (b) subject to subsection (4), a reference in the safety statute to a minister or a department is deemed to be a reference to the authority, and the authority may exercise the powers of, and shall fulfil the duties imposed on, the minister or the department, as the case may be, pursuant to the safety statute;
 - (c) all provisions in the safety statute that impose duties on a minister, a department or an official or employee of a department or that grant powers to a minister, a department or an official or employee of a department are delegated to the authority or a person appointed or designated by the authority, as the case may be, unless specifically exempted in the safety standards agreement;
 - (d) all persons who are required to pay to a minister, a department or the Minister of Finance a fee prescribed in the regulations made pursuant to the safety statute shall instead pay to the authority any fee charged by the authority pursuant to section 7 or 30 for the purposes of the safety statute;
 - (e) the authority may exercise any powers given to a minister, a department or the Minister of Finance or the Government of Saskatchewan pursuant to the safety statute to enforce payment of any fee prescribed in the regulations made pursuant to the safety statute to enforce the payment of any fee charged by the authority pursuant to section 7 or 30 for the purposes of the safety statute, including the power to cancel or suspend any licence, approval or permit issued pursuant to the safety statute for non-payment of that fee;
 - (f) all applications, reports and returns that are required to be made to a minister, a department or an official or employee of a department pursuant to the safety statute, and all information and documentation that is required to be provided to a minister, a department or an official or employee of a department pursuant to the safety statute, shall be made or provided to the authority or a person appointed or designated by the authority, as the case may be;
 - (g) every valid permit, licence or certificate issued by a chief inspector, a minister or a department pursuant to the safety statute that is in force on the day before Part III comes into force remains in force and may be dealt with by the authority in accordance with the safety statute as if it had been issued by the authority;
 - (h) every registration or approval issued by a chief inspector, a minister or a department pursuant to the safety statute that is in force on the day before Part III comes into force remains in force and may be dealt with by the authority in accordance with the safety statute as if it had been issued by the authority; and
 - (i) every exemption, prohibition, notice, order, decision, requirement or direction issued by a chief inspector, an inspector, a minister or a department pursuant to the safety statute that is in place on the day before Part III comes into force remains in force and may be dealt with by the authority pursuant to the safety statute as if it had been issued by the authority.

(3) In a safety standards agreement, the minister and the authority may provide that all or any of the matters mentioned in subsection (2):

- (a) do not apply respecting the safety statute; or
- (b) are to apply respecting the safety statute in the manner and with the modifications set out in the safety standards agreement.

(4) Clause (2)(b) does not apply to a reference to the minister or to the powers and duties of the minister in the following provisions:

- (a) section 40 of *The Amusement Ride Safety Act*;
- (b) clauses 47(b) and (c) of *The Boiler and Pressure Vessel Act, 1999*;
- (c) subsections 56(5) and (6) of *The Boiler and Pressure Vessel Act, 1999*.

PART IV

General

Immunity

27(1) No action or proceeding lies or shall be commenced against the Government of Saskatchewan, the minister, the minister responsible for the administration of a safety statute, the authority or any officer, employee or agent of the Government of Saskatchewan or the authority for anything in good faith done, caused, 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 a safety statute, this Act or the regulations made pursuant to this Act or a safety statute or in the carrying out or supposed carrying out of any order or direction made pursuant to a safety statute or this Act or the regulations made pursuant to this Act or a safety statute or any duty imposed by a safety statute, this Act or the regulations.

(2) No action or proceeding lies or shall be commenced against the Government of Saskatchewan, any member of the Executive Council, the authority or any officer, employee or agent of the Government of Saskatchewan or the authority because of the enactment of this Act.

Regulations

28 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of section 6, prescribing other duties;
- (c) for the purposes of section 7, prescribing the manner of causing notice of each bylaw to be made public;
- (d) for the purposes of section 25, prescribing additional matters;
- (e) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (f) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or appropriate to carry out the intent of this Act.

PART V
**Transitional, Consequential
and Coming into Force**

Transitional

29(1) Notwithstanding any other Act or law or any provision of any contract, the Lieutenant Governor in Council may, by order, transfer to and vest in the authority any assets, liabilities and contracts of the Government of Saskatchewan, subject to any terms and conditions that may be specified in the order.

(2) Notwithstanding any other Act or law or any provision of any contract, the chairperson of the Public Service Commission may transfer any employees in the public service within the meaning of *The Public Service Act, 1998* to, and cause them to become employees of, the authority.

(3) Notwithstanding any Act, law or provision of a contract, a transfer of any employee pursuant to subsection (2):

- (a) does not constitute the abolition or termination of any position or job;
- (b) does not require any advance notice, including any notice that may be required pursuant to any Act, law or provision of a contract; and
- (c) does not constitute constructive dismissal of any person or a breach of contract.

Transitional—fees

30(1) In this section, “**existing fees**” means the fees that are payable respecting any matter governed by a safety statute and that are prescribed in the regulations made pursuant to the safety statute.

(2) Until the authority exercises its power to set fees pursuant to section 7, the fees that the authority may charge for any service it provides or respecting any matter governed by a safety statute service are the existing fees.

(3) If there is any conflict between a bylaw made by the authority respecting fees and any regulation respecting fees, the bylaw governs.

S.S. 1986, c.A-18.2, new section 2.1

31 The following section is added after section 2 of *The Amusement Ride Safety Act*:

“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”.

S.S. 1999, c.B-5.1, new section 2.1

32(1) *The Boiler and Pressure Vessel Act, 1999* is amended in the manner set forth in this section.

(2) The following section is added after section 2:

“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”.

(3) Subsection 4(1) is amended by striking out “in accordance with *The Public Service Act, 1998*”.

R.S.S. 1978, c.P-4, new section 2.1

33(1) *The Passenger and Freight Elevator Act* is amended in the manner set forth in this section.

(2) The following section is added after section 2:

“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”.

(3) Subsection 5(1) is amended:

(a) by striking out “under *The Public Service Act, 1998*”; and

(b) by striking out “, who shall receive such remuneration as may be determined under the first mentioned Act”.

Coming into force

34 This Act comes into force on proclamation.

THIRD SESSION

Twenty-sixth Legislature

SASKATCHEWAN

B I L L

No. 136

An Act establishing the Technical Safety Authority of
Saskatchewan and respecting the Administration
of Safety Statutes

Received and read the

First time

Second time

Third time

And passed

Honourable D.F. (Yogi) Huyghebaert
