



Elevating and Amusement Devices Safety Program	Ref. No.: 294-21
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Subject: TSSA regulatory jurisdiction as related to elevating devices when associated with federal or other non-regulatory activities or functions.

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This advisory is intended to provide guidance to elevating devices stakeholders regarding TSSA's regulatory jurisdiction as it relates to:

- the submittal of design applications for new or altered elevating devices, and obtaining inspections of those devices, or
- obtaining periodic inspection services

when these devices are considered by TSSA to fall within the jurisdiction of federal or other non-regulatory activities or services.

1. TSSA's Regulatory Jurisdiction

TSSA's regulatory jurisdiction is limited to the province of Ontario. The scope of TSSA's permitted activities are generally set forth in the *Technical Standards and Safety Act, 2000* (TSS Act). In addition, the *Elevating Devices Regulation* (Ontario Regulation 209/01) sections 1 and 2 provide for the types of devices that TSSA regulates in Ontario.

TSSA's jurisdiction does not include matters under Federal jurisdiction or Indigenous lands. Provincial jurisdiction is not assumed by TSSA:

- if regulation by TSSA would interfere with a federally regulated activity or function;
- if the federal government has occupied the regulatory field and administers a regulatory regime for that activity (see item 2 below); or
- If the activity occurs on Indigenous land or territory.

Therefore, elevating devices that are considered federal are not regulated by TSSA. This means these devices are not required to be licensed or inspected by TSSA.

2. Federal Jurisdiction

Federal jurisdiction includes federally owned or administered lands and certain federally regulated entities or activities. Federal jurisdiction examples include:

- Airports and aviation;
- Nuclear facilities;
- Federal ports and harbours;
- Interprovincial railways;
- Federal undertakings such as Canada Post, Via Rail; and
- Military installations including bases, airfields, hangars, armouries, etc.

3. TSSA's Non-Regulatory Business Activities

Section 3.6 of the *TSS Act* sets out the TSSA's corporate objects. These are the activities TSSA is permitted or required to undertake in order to fulfill its mandate. Included in these objects is the provision of non-regulatory services as an "additional activity" in accordance with the Memorandum of Understanding (MOU) between TSSA and the Ontario Ministry of Government and Consumer Services (MGCS).

Under the MOU provisions, TSSA may provide safety related services that are related or similar to those matters assigned to the Corporation under the *TSS Act*:

- a. To the federal government or any of its agencies, boards, commissions, or its other entities, where all aspects of the work occurs within Ontario;
- b. To a municipality within Ontario even if that municipality is subject to the *Technical Standards and Safety Act 2000*;
- c. To a First Nation, with that First Nation's consent, for work occurring on a reserve within the meaning of the *Indian Act* (Canada), provided that the reserve is located within Ontario;
- d. To a person or entity for the purposes of that person or entity complying with Canadian federal or provincial law, and provided that, for work occurring after December 31, 2013, all aspects of the work occurs within Ontario.

This provision allows TSSA to provide non-regulatory services to federal agencies or on Indigenous lands where these parties request TSSA's services.

4. Agreements required for permissible Non-Regulatory Services by TSSA

In order for TSSA to provide inspection services for new installations or alterations (engineering design review & inspection) for devices on federal lands or associated with federal undertakings, TSSA requires contractual agreements be signed between the TSSA and the responsible party. For:

1. A non-regulatory services contract for the design review and initial inspections, TSSA and the contracting party (usually the Elevating Device Contractor) will enter into a one-time agreement for these services;
2. A non-regulatory services contract for periodically inspecting these devices (which must include every device in that location), TSSA will enter into a 3-year term contract with the owner or managing company on behalf of the owner.

TSSA will not provide design review or any initial/alteration inspection services for the elevating device contractor unless there is a long term non-regulatory periodic services inspection agreement in place with the owner or property manager of the device.

Examples where TSSA will require a non-regulatory agreement to be signed may include:

- Elevator periodic inspections in federal buildings occupied by Ontario for Public Works Canada
- Elevator modernizations (involving TSSA engineering services) and subsequent initial inspections in
 - Federal buildings occupied by Public Works Canada
 - Federal facilities such as a military bases
- Engineering and/or Inspection services for
 - Elevators or moving walks at Greater Toronto Airport Authority
 - Automated people mover at the Greater Toronto Airport Authority
 - Elevators / Escalators directly associated with / impacting operations of activities relevant to

- Canada Post
- Passport Canada office
- Parliament Buildings
- Airports
- Military bases

Contractors who are performing installations or alterations at locations they believe may be non-regulatory must advise TSSA in advance of scheduling inspection services in order to ensure that all necessary non-regulatory agreements are in place. This will greatly assist TSSA and contractors to reduce inspection and scheduling delays.

Please note:

- TSSA is not actively pursuing non-regulatory business arrangements/contracts. TSSA will maintain existing contracts at the client's request and only enter into new arrangements at the request of non-regulatory customers, but only if those relationships promote and enhance public safety and only if entering into such arrangements does not negatively impact the TSSA's statutory mandate; and

TSSA will not provide a licence to a federal device unless the customer has entered into a contractual arrangement with TSSA for periodic inspection services.