

MINISTRY OF EMPLOYMENT, LABOR AND SOCIAL COHESION**Decree No. 2004-964 of September 9, 2004, related to elevator safety and amending the building and housing code**

NOR: SOCU0410773D

The Prime Minister,

Concerning the report from the minister of employment, labor and social cohesion,

In consideration of directive 98/34/CE of June 22, 1998, setting forth an information procedure in the field of technical standards and regulations, as amended by directive 98/48/CE of July 20, 1998;

In consideration of the building and housing code;

In consideration of the penal code;

In consideration of decree No. 95-826 of June 30, 1995, setting forth the special safety provisions applicable to work performed on elevators, freight elevators, escalators, moving walkways and automatic vehicle parking systems, particularly its article 9;

In consideration of decree No. 2000-810 of August 24, 2000, related to the marketing release of elevators;

The Council of State (public works section) having presented its opinions,

Decrees:

Art. 1. – The first section of chapter V of Title II of Book I of the building and housing code entitled “Elevator Safety” is composed of three subsections entitled respectively: “Elevator safety,” “Maintenance and technical inspection,” and “Building occupants’ right to information” including articles R. 125-1 to R. 125-2-8 worded as follows:

*“Subsection 1**“Elevator safety”*

“Art. R. 125-1 – The elevators to which the provisions of this section apply are apparatus that permanently serve the levels of buildings and constructions by means of a cabin that moves along rigid guides whose horizontal inclination is greater than 15 degrees and that is intended to transport either persons or persons and items, or only items inasmuch as it is accessible without difficulty for a person and inasmuch as it is equipped with control elements situated inside or within reach of the person located inside it.

Apparatus that move along a perfectly fixed trajectory in space are also regarded as elevators, even if they do not move along rigid guides, particularly scissor-guided elevators.

“Art. R. 125-1-1. – The safety of an elevator consists in ensuring:

- “ 1.* The closure of the landing doors;
- “ 2.* Safe access of persons to the cabin;
- “ 3.* The protection of users from impacts caused by closing doors;
- “ 4.* The prevention of the risks of the cabin falling or being crushed;
- “ 5.* Protection against disruptions in the cabin speed;
- “ 6.* The availability to users of means of alert and communication with a service department;
- “ 7.* The protection of the system’s electrical circuits;
- “ 8.* Safe access of service personnel to the machinery, associated equipment and to the space through which the cabin travels;
- “ 9.* The impossibility for any person other than service personnel to access the machinery, the associated equipment and the space through which the cabin travels;

“For elevators installed after August 27, 2000, achievement of these safety objectives relies on compliance with the essential safety requirements set forth in article 3 of decree No. 2000-810 of August 24, 2000, related to the marketing release of elevators and, for other elevators, on the implementation of the provisions or of the equivalent means set forth in articles R. 125-1-2 and R. 125-1-3, as well as, for all elevators, on compliance with the maintenance obligations set forth in articles R. 125-2 to R. 125-2-6.

“*Art. R. 125-1-2.* -- The owner of an elevator installed before August 27, 2000, that does not satisfy the safety objectives mentioned in article R. 125-1-1 installs the following safety devices:

“I. – Before July 3, 2008:

- “ 1. Locks equipped with control devices for closing and locking landing doors;
- “ 2. When it is necessary to prevent acts likely to adversely affect the locking of the landing door, a device preventing or limiting such acts;
- “ 3. A device for detecting the presence of persons intended to protect them from the impact of the sliding doors during closure;
- “ 4. A shaft barrier preventing access to this shaft and to the unlocking mechanisms of the landing door locks;
- “ 5. For electric elevators, a cabin parachute and a descending speed limiter;
- “ 6. A device designed to avoid any fall in the shaft when the cabin is immobilized outside the unlocking zone;
- “ 7. An inspection and cabin stop control in order to protect service personnel working on the roof of the cabin, in the shaft or in the elevator pit;
- “ 8. Devices allowing service personnel to access machinery or pulleys safely;
- “ 9. A locking system for the doors and partial doors intended for the technical inspection of the shaft and the pit, as well as safety doors, with an automatic control for stopping the elevator when these doors and partial doors are opened by service personnel.

“II. – Before July 3, 2013:

1. In elevators installed before January 1, 1983, a cabin stop control and level maintenance control capable of ensuring, at all levels served, safe access as well as handicap or limited mobility access;
2. A remote alarm system between the cabin and a service department and emergency cabin lighting;
3. Sufficient mechanical strength of the landing doors when they comprise a window;
4. For hydraulic elevators, a system for preventing cabin free fall, drift and excess speed;
5. Protection with marking or signage eliminating the risk of direct contact of service personnel with bare live components or conductors in the control cabinets, the electrical cabinets and the current input panels;
6. A device to protect service personnel against the risk of getting caught in the moving transmission components, particularly the pulleys, cables or belts;
7. Fixed lighting of the machinery room or pulleys ensuring sufficient lighting of work and traffic areas.

III. – Before July 3, 2018:

1. In elevators installed after December 31, 1982, a cabin stop and level maintenance control to ensure safe access as well as accessibility for handicapped persons or persons with limited mobility at all levels served;

2. In electric adhesion elevators, a system to protect against excessive speed of the cabin during ascent.

A joint order of the ministers responsible for building and industry sets forth the technical provisions relating to these devices based on the characteristics of the systems.

Art. R. 125-1-3. – In place of all or part of the safety provisions mentioned in article R. 125-1-2, an elevator owner may implement equivalent measure if they have been previously approved by a person who satisfies the conditions set forth in article R. 125-2-5. This approval, formulated in writing and accompanied by a risk analysis establishing that the elevator satisfies the safety requirements mentioned in article R. 125-1-1, is delivered to the owner.

Art. R. 125-1-4. –If he deems that the characteristics of the elevator preclude the implementation of one of the provisions set forth in article R. 125-1-2 or of an equivalent measure as per article R. 125-1-3, the owner has a technical assessment performed by a person coming under one of the categories mentioned in I of article R. 125-2-5. This person gives his opinion concerning the alleged impossibility and, if necessary, concerning the compensatory measures that the owner plans to implement to take into account the safety objectives defined in article R. 125-1-1.

The owner uses the same procedure if he deems that the implementation of one of the provisions set forth in article R. 125-1-2 would be likely to prevent the access of handicapped persons or persons with limited mobility or adversely affect the historical heritage represented by the building or certain of its elements with notable artistic or technical value.

The owner implements the technical expertise procedure and, if necessary, the compensatory measures within the time frames set forth in article R. 125-1-2 for the devices they replace.

Sub-section 2

Maintenance and technical inspection

Art. R. 125-2. - The maintenance of an elevator aims to ensure its proper operation and to maintain the level of safety resulting from the application of decree No. 2000-810 of August 24, 2000, relating to the market release of elevators or the application of articles R. 125-5 to R. 125-1-4.

To this end, the owner of an elevator system takes the following minimum provisions:

1. Periodic operations and inspections:

- a) An inspection every six weeks in order to monitor the operation of the system and to make the necessary adjustments;
- b) A check every six weeks of the effectiveness of the landing door locks and, if necessary, of the devices preventing or limiting acts adversely affecting the locking of the landing doors;
- c) A semi-annual examination of the proper condition of the cables and an annual check of the parachutes;
- d) The annual cleaning of the system's pit, of the cabin roof and of the machine room;
- e) The lubrication and cleaning of parts;

2) Occasional operations:

- a) The repair or replacement, if they cannot be repaired, of small system parts that show signs of excessive wear;
- b) The specific maintenance measures intended to eliminate or attenuate defects presenting a danger for the safety of persons or adversely affecting the proper operation of the apparatus identified during the technical inspection mentioned in article R. 125-2-7;

c) In case of an incident, measures to free persons trapped in the cabin, as well as troubleshooting measures and measures for returning the elevator to normal operation.

In addition, when important parts of the system other than those mentioned in a of No. 2 are worn, the owner has them repaired or replaced if they cannot be repaired.

Art. R. 125-2-1. – I. – The owner signs a written maintenance contract with a company whose personnel responsible for maintenance must have received appropriate training in accordance with the conditions set forth in article 9 of decree No. 95-826 of June 30, 1995, establishing the special safety provisions applicable to work performed on elevators, freight elevators, escalators, moving walkways and automatic vehicle parking systems.

At a minimum, the contract includes the following clauses:

- a) The execution of the obligations set forth in article R. 125-2, except for its last paragraph;
- b) The length of the contract, which may not be less than one year, the terms and conditions for its extension or its termination;
- c) The conditions of availability and supply of spare parts and an indication of the warranty period for the replacement of the parts mentioned in a of No. 2 of article R. 125-2;
- d) The description, prepared by both parties, of the initial condition of the system;
- e) The updating of the maintenance log;
- f) The coverage provided by the maintenance company's insurance contracts;
- g) The penalties incurred in case of non-performance or faulty performance of the contractual obligations, as well as the methods for settling disputes;
- h) The conditions and terms for any use of subcontractors;
- i) The conditions according to which amendments may be signed;
- j) The detailed formula for revising prices.

II. - When the contract is signed, the owner gives the company the necessary instruction manual for maintaining the elevator in good working condition. This manual comprises a description of the characteristics of the system. If this document does not exist, the company develops this document. At the end of the contract, the instruction manual is delivered to the owner.

When the contract is signed, the company gives the owner a document describing the organization of its maintenance plan for information purposes.

III. – The inspections, operations and service performed in execution of the maintenance contract are recorded in a maintenance log that is kept up to date. Additionally, the company gives the owner an annual activity report..

IV. – A joint order of the ministers responsible for construction and industry establishes the list of small parts mentioned in a of No. 2 of article R. 125-2-1 and specifies, insofar as necessary, the content of the minimum maintenance provisions as well as the methods for keeping the maintenance log.

Art. R. 125-2-2. - When in addition to the minimum clauses mentioned in article R. 125-2-1, the maintenance contract also includes a repair and replacement clause for important parts, it indicates distinctly the service time frames and the remuneration set forth for this service.

Art. R. 125-2-3. – When the owner does not use a service provider but decides to maintain the elevator using his own means, he is required to comply with the provisions of article R. 125-2. He keeps the maintenance log up to date and prepares an annual activity report in accordance with the conditions set forth in III of article R. 125-2-1.

The personnel he employs to carry out this mission must have received appropriate training in accordance with the conditions set forth in article 9 of decree No. 95-826 of June 30, 1995, establishing the special safety provisions applicable to work performed on elevators, freight elevators, escalators, moving walkways and automatic vehicle parking systems.

Art. R. 125-2-4. - The owner of an elevator is required to have a technical inspection of his system performed every five years.

The purpose of the technical inspection is:

- a) To verify that the apparatus to which decree No. 2000-810 of August 24, 2000, related to the marketing release of elevators applies are equipped with the devices set forth by this decree and that they are in good condition;
- b) To verify that the apparatus that do not come within the scope of application of the aforementioned decree of August 24, 2000, are equipped with the safety devices set forth by articles R. 125-1-1 and R. 125-1-2, and that these devices are in good condition or that the equivalent measures or the measures set forth in article R. 125-1-3 are effectively implemented;
- c) To identify any defect presenting a danger for the safety of persons or adversely affecting the proper operation of the apparatus.

Art. R. 125-2-5. - To perform the technical inspection set forth in article R. 125-2-4, the owner calls upon, at his choice:

- a) A technical inspector as per article L. 117-23, who has an accreditation authorizing him to service elevators;
- b) An agency authorized in one of the member States of the European Union or in one of the other States party to the agreement on the European Economic Space, responsible for performing an evaluation of the conformity of elevators subject to EC marking and satisfying the criteria of appendix VII of the aforementioned decree of August 24, 2000;
- c) A legal entity employing employees whose skills have been certified by an agency accredited by the French accreditation committee or by an agency that signed the European Multilateral Agreement made in connection with the European Coordination of Accreditation Agencies;
- d) An individual who holds a certification issued under the conditions set forth in c).

For the application of c) and d) above, the certification of skills is issued based on criteria related to technical knowledge, professional experience and competence in technical inspections in the field of elevators, defined by decision of the minister responsible for construction.

II. – The person responsible for a technical inspection gives the owner a document by which he certifies on his honor that his situation with respect to the provisions of the second paragraph of article L. 125-2-3 is in order.

III. – The elevator owner makes the maintenance log and the annual report set forth in article R. 125-2-1 available to the person responsible for the technical inspection.

Art. R. 125-2-6. - The person who performs the technical inspection prepares a report indicating the operations performed and, if necessary, the defects found. He delivers this report to the owner within one month following the end of the inspection.

The owner transmits the report to the company or to the person responsible for maintaining the elevator, and if work is necessary, to the persons responsible for its design and execution.

A joint order of the ministers responsible for construction and industry sets forth, insofar as needed, the nature of the inspection measures to be performed and the methods for drawing up the inspection report.

Sub-section 3
Building occupants' right to information

Art. R. 125-2-7. – Any person who is a resident of a building comprising an elevator has the right to consult the technical inspection report at the owner's headquarters or at the owner's domicile or the domicile of his representative,.

At his request and expense, he receives a written copy of these documents from the owner.

Art. R. 125-2-8. - In case of any disregard for the provisions related to the installation of safety devices and the equivalent or compensatory measures set forth in articles R. 1250102 to R. 125-1-4, the urgent proceedings judge of the regional court in whose jurisdiction the building is located may hear the matter in order to order that the elevators be brought into compliance, potentially with a fine for non-compliance.

He may also be asked to order compliance with the maintenance, technical inspection and information obligations set forth by articles R. 1125-2 to R. 125-2-7.

Art. 2. – In Title V of Book I of the building and housing code, chapter II “Criminal sanctions” is amended as follows:

I. – Sections I, II and III become respectively sections II, III and IV.

II. – Articles R. 152-1 to R. 152-8 become articles R. 152-3 to R. 152-10.

III. A first section entitled “Elevator Safety” is created, containing articles R. 152-1 and R. 152-2, which read as follows:

Art. R. 152-1. - The following actions by a person who owns an elevator are punishable by a 3rd class fine:

1. Failure to install the safety devices set forth in article R. 125-1-2 or the equivalent measures set forth in article R. 125-1-3, except in the cases set forth by article R. 125-1-4;

2. In the cases set forth in article R. 125-1-4, failure to have the technical inspection performed;

3. Failure to take out a maintenance contract in accordance with article R. 125-2-1 or, failure to maintain the elevator by his own means in accordance with the conditions set forth in articles R. 125-2-4 and R. 125-2-5.

II. - The following violations committed by a person who is a service provider responsible for maintaining the system are punishable by a class 3 fine:

1. Performing the system maintenance without a written maintenance contract, except for the case set forth in article R. 125-2-3;

2. Signing a maintenance contract that does not include each of the minimum clauses enumerated in article R. 125-2-3;

3. Using a person who does not have the qualification required by article R. 125-2-4 to perform the maintenance contract.

III – The following omissions by a person responsible for the technical inspection of an elevator are punishable by a class 3 fine:

1. Not performing the necessary checks set forth in article R. 125-2-4;
2. Not having the qualification required by article R. 125-2-5;
3. Not complying with the incompatibilities set forth in the second paragraph of article 125-2-3.

Art. R. 152-2. – Legal entities may be declared criminally liable under the conditions set forth by article 121-2 of the penal code for the infractions defined in article R. 152-1.

The penalty incurred by legal entities is the fine according to the terms and conditions set forth by article 131-41 of the penal code.

Art. 3. – In article R. 161-2 of the building and housing code, the words: “except for articles R. 111-24 to R. 111-28 and R. 131-19 to R. 131-23” are replaced with the words: “except for articles R. 111-24 to R. 111-28, R. 125-1 to R. 125-2-8, R. 131-19 to R. 131-23, R. 152-1 and R. 152-2.”

Art. 4. – I. - If an elevator maintenance contract in progress on the date of publication of this decree expires after September 30, 2005, the provisions of article R. 125-2-1 are applicable no later than September 30, 2005.

II. - The owner who maintains an elevator by his own means is required to comply with the obligations set forth in articles R. 125-2 and R. 125-2-3 no later than September 30, 2004.

III. - The first technical inspection takes place no later than July 3, 2009, for elevators installed before July 3, 2003.

Art. 5. – The Minister of State, Minister of Economy, Finance and Industry, the Minister of Employment, Labor and Social Cohesion, the Keeper of the Seals, Minister of Justice, the minister delegated to industry and the secretary of state for housing are responsible, each in their own regard, for the execution of this decree, which will be published in the *Official Gazette* of the French Republic.

Done in Paris on September 9, 2004.

JEAN-PIERRE RAFFARIN

By the Prime Minister
*The Minister of Employment, Labor
and Social Cohesion,*
JEAN-LOUIS BORLOO

*The Minister of State, Minister of Economy,
Finance and Industry,*
NICOLAS SARKOZY

The Keeper of the Seals, Minister of Justice,
DOMINIQUE PERBEN

The Minister delegated to Industry,
PATRICK DEVEDJIAN