

1984 No. 1890

HEALTH AND SAFETY

The Freight Containers (Safety Convention) Regulations 1984

<i>Made - - - -</i>	<i>4th December 1984</i>
<i>Laid before Parliament</i>	<i>11th December 1984</i>
<i>Coming into Operation</i>	<i>1st January 1985</i>

ARRANGEMENT OF REGULATIONS

1. Citation and commencement
 2. Interpretation
 3. Application of Regulations
 4. Conditions of use
 5. Approval of containers—either by design type or individually
 6. Fixing of safety approval plate
 7. Examination of containers
 8. Exemptions
- Schedule—Safety approval plate

The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2), (4), (5)(b), (6)(b) and (9), 43(2) and (4), and 82(3) and paragraphs 1(1)(a) and (c), (2) and (3), 3, 4(1), and 6(1) of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to the proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of that Act, after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Freight Containers (Safety Convention) Regulations 1984 and shall come into operation on 1st January 1985.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—
“the Convention” means the International Convention for Safe Containers

(a) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16 respectively.

signed at Geneva on 2nd December 1972 and ratified by the United Kingdom on 8th March 1978;

“container” means an article of transport equipment which is

- (a) of a permanent character and accordingly strong enough for repeated use, and
- (b) designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading, and
- (c) designed to be secured or readily handled or both, having corner fittings for these purposes, and
- (d) of a size such that the area enclosed by the outer bottom corners is either
 - (i) if the container is fitted with top corner fittings, at least 7 square metres, or
 - (ii) in any other case, at least 14 square metres,

and includes a container when carried on a chassis but does not include a vehicle or packaging, or any article of transport equipment designed solely for use in air transport, or a swap body except when it is carried by or on board a sea-going ship and is not mounted on a road vehicle or rail wagon;

“corner fittings” means an arrangement of apertures and faces at either the top or the bottom or both at the top and the bottom of the container for the purposes of handling, stacking and securing or any of those purposes;

“maintained” means maintained in an efficient state in efficient working order and in good repair;

“safety approval plate” means a plate in the form and containing the information specified by the Schedule;

“swap body” means a container which is specially designed for carriage by road only or by rail and road only and is without stacking capability and top lift facilities;

“use” means use for the purpose for which the container is designed but shall not include—

- (a) movement to a place for remedial action provided:
 - (i) so far as is reasonably practicable the movement is without risk to the safety of any person, and
 - (ii) the remedial action is carried out before the container is repacked with goods,
- (b) if the container is not loaded with goods,
 - (i) transport to a place for testing the container to obtain approval under Regulation 5, or
 - (ii) delivery of the container to its purchaser by the vendor or his agent.

(2) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered Regulation is a reference to the Regulation of these Regulations which bears that number,
- (b) a numbered paragraph is a reference to that paragraph so numbered in the Regulation in which the reference appears,
- (c) “the Schedule” is a reference to the Schedule to these Regulations,
- (d) any document operates as a reference to that document as revised or re-issued from time to time.

Application of Regulations

3. These Regulations apply to—

- (a) any container used at work, or supplied for use at work, and which is in Great Britain;
- (b) any container so used or supplied and which is outside Great Britain in circumstances in which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1977(a).

Conditions of use

4.—(1) The owner or lessee of a container shall not use or permit that container to be used unless—

- (a) it has valid approval in accordance with Regulation 5, and
- (b) it has a valid safety approval plate fixed to it in accordance with Regulation 6, and
- (c) it is properly maintained, and
- (d) the examination requirements in Regulation 7 are met in respect of that container, and
- (e) all markings on the container showing maximum gross weight are consistent with the maximum gross weight information on the safety approval plate, except that if construction of the container commenced before 1st January 1984 then compliance with this sub-paragraph is not required before 1st January 1989.

(2) Any other person using or permitting the use of a container shall, so far as is reasonably practicable, ensure that—

- (a) a valid safety approval plate is fixed to it in accordance with Regulation 6, and
- (b) all markings on the container showing maximum gross weight are consistent with the maximum gross weight information on the safety

(a) S.I. 1977/1232.

approval plate, except that if construction of the container commenced before 1st January 1984 then compliance with this sub-paragraph is not required before 1st January 1989.

(3) Where it is an express term of a bailment of a container that the bailee should be responsible for ensuring that the container is maintained or examined, the bailee shall, in addition to any duty placed on him by paragraph (2), ensure that—

- (a) it is properly maintained, and
- (b) the examination requirements in Regulation 7 are met in respect of that container.

(4) It shall be a defence to any proceedings for using or permitting to be used a container which does not have a valid approval in accordance with Regulation 5 that at the time of the contravention an approval had been given by an organisation authorised for this purpose by the Health and Safety Executive before these Regulations come into operation and such an approval had not ceased to be valid for the purposes for which it was given.

(5) It shall be a defence to any proceedings for using or permitting a container to be used which had not been properly maintained or examined that at the time of the contravention a bailment or lease was in force in respect of the container and

- (a) in the case of an owner, that it was an express term of the bailment or lease that the bailee or lessee, as the case may be, should be responsible for ensuring that the container was maintained or examined,
- (b) in the case of a lessee
 - (i) that it was not an express term of the lease that he should be responsible for ensuring that the container was maintained or examined, or
 - (ii) that he had become a lessor under a further lease and that it was an express term of the further lease that the further lessee should be responsible for ensuring that the container was maintained or examined,
- (c) in the case of a bailee that he had become a bailor under a further bailment and that it was an express term of the further bailment that the further bailee should be responsible for ensuring that the container was maintained or examined.

Approval of containers—either by design type or individually

5.—(1) An approval referred to in Regulation 4(1)(a) (whether relating to a design type or to an individual container) shall be valid only if—

- (a) it has been issued:
 - (i) by the Health and Safety Executive, or
 - (ii) by a person or body of persons appointed for the time being by the Executive in accordance with paragraph (3), or

(iii) by or under the authority of a Government which has ratified or accepted or approved or acceded to the Convention, and

(b) it has not ceased in accordance with paragraph (2) to be valid.

(2) If—

(a) the person or body of persons which issued the approval states in writing that it is no longer valid, or

(b) the Executive states in writing that the approval is no longer valid, whether or not it was issued by the Executive,

then that approval shall cease to be valid for the purposes of paragraph (1).

(3) The Executive shall appoint in writing such persons and bodies as it considers appropriate for the purpose of issuing approvals under paragraph (1)(a)(ii) and any such appointment may be subject to conditions and limited as to time and may be varied or revoked at any time by the Executive in writing.

Fixing of safety approval plate

6. The container has a valid safety approval plate fixed to it if—

(a) the safety approval plate is marked and fixed to the container in accordance with the Schedule, and

(b) the information on the safety approval plate is correct and relates to a valid approval, and

(c) the safety approval plate is fixed either—

(i) after the container is manufactured and before it is first used, or

(ii) after the container is examined in accordance with Regulation 7 and before it is again used.

Examination of containers

7.—(1) The examination referred to in Regulation 4(1)(d) and (3)(b) shall be in accordance with an examination scheme or programme approved by the Health and Safety Executive for the purposes of this Regulation.

(2) There shall be clearly marked on the container either on or as close as practicable to the safety approval plate all matters which the examination scheme or programme requires to be marked.

(3) A fee of £75 is payable by the applicant to the Executive when any application for approval of a scheme or programme under Regulation 7(1) is made.

(4) Compliance with the procedure adopted by the State where the owner is permanently resident or incorporated shall be deemed to be in compliance with this Regulation provided the procedure has been approved or prescribed by the Government of that State, or by any organisation authorised by such a Government to act on its behalf, for the purpose of the Convention and that Government has ratified accepted approved or acceded to the Convention.

Exemptions

8.—(1) Subject to paragraph (2) below the Health and Safety Executive may by certificate in writing exempt any container or class of containers, or any person or class of persons to which these Regulations apply from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The Health and Safety Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption, and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced because of it.

Signed by order of the Secretary of State.

Peter Bottomley,
Joint Parliamentary Under Secretary of State,
Department of Employment.

4th December 1984.

SCHEDULE

Regulations 2 and 6

Safety approval plate

1. The safety approval plate required by Regulation 6 shall be permanently fixed to the container in a position such that it is—

- (a) readily visible, and
- (b) adjacent to any other officially approved plate carried on the container, and
- (c) not likely to be easily damaged.

2. The safety approval plate shall—

- (a) be in the form prescribed by figure 1 of this Schedule;
- (b) consist of a permanent, non-corroding, fireproof rectangular plate measuring not less than 200mm by 100mm,
- (c) be marked with:
 - (i) the legend 'CSC Safety Approval' in letters of at least 8mm in height, and
 - (ii) the other legends and information prescribed by sub-paragraph (d) and by figure 1 of this Schedule in letters of at least 5mm in height,

and such markings shall be permanent, clear and legible and in at least the English or French language, but nothing in this sub-paragraph shall prevent any markings for the purposes of an examination scheme or programme being by means of a decal.

- (d) contain the following information in at least the English or French language—
- (i) line 1—the country of approval and approval reference,
 - (ii) line 2—the month and year of manufacture,
 - (iii) line 3—the manufacturer's identification number in respect of the container, or in the case of containers for which that number is unknown the owner's identification number, or the number allotted by the Government or organisation which has granted the approval,
 - (iv) line 4—the maximum gross weight in kilograms and pounds,
 - (v) line 5—the allowable stacking weight for 1.8g in kilograms and pounds (that is to say, the designed maximum superimposed static stacking weight),
 - (vi) line 6—the transverse racking test load value in kilograms and pounds,
 - (vii) line 7—the end wall strength value as a proportion of the maximum permissible payload, which shall not be entered unless the end walls are designed to withstand a load of less or more than 0.4 times the maximum permissible payload,
 - (viii) line 8—the side wall strength value as a proportion of the maximum permissible payload, which shall not be entered unless the side walls are designed to withstand a load of less or more than 0.6 times the maximum permissible payload,
 - (ix) line 9—on and after 1st January 1987 (if the approved examination scheme or programme so requires)—
 - (a) a legend indicating that the container is subject to a continuous examination programme, or
 - (b) the date (expressed in month and year only) before which the container shall next be thoroughly examined.

Lines 7 and 8 may be used for the above purposes (a) and (b) if they are not required to contain other information.

Figure 1

CSC SAFETY APPROVAL

1	
2	DATE MANUFACTURED
3	IDENTIFICATION No.
4	MAXIMUM GROSS WEIGHT kg lb
5	ALLOWABLE STACKING WEIGHT FOR 1.8g kg lb
6	RACKING TEST LOAD VALUE ... kg .. lb
7	
8	
9	

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations require owners and lessees and others in control of freight containers used at work or supplied for use at work to comply with conditions of use, in accordance with the International Convention for Safe Containers 1972.

The Regulations apply to containers which have top corner fittings and a bottom area of at least 7 square metres or, if they do not have top corner fittings, a bottom area of at least 14 square metres.

Regulations 4 and 5 impose a condition that a container should have a valid approval issued by the Health and Safety Executive or a body which it has appointed for that purpose, or by or under the authority of a foreign Government which has acceded to the Convention. The details of the arrangements for the approval of containers in Great Britain are set out in a document entitled "Arrangements in Great Britain for the Approval of Containers" obtainable from the Health and Safety Executive.

Regulation 4 also imposes a condition that a container should be properly maintained and meet the examination requirements of Regulation 7, in accordance with an examination scheme or programme approved by the Executive. A document entitled "Conditions for Approval of Examination Schemes or Programmes" is obtainable from the Executive.

Regulation 4 imposes a further condition that a container should have a valid safety approval plate fixed to it in accordance with Regulation 6. Detailed requirements as to the safety approval plate are set out in the Schedule.

The Regulations provide for defences to criminal proceedings (Regulation 4) and for the Health and Safety Executive to grant exemptions (Regulation 8).

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