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STATUTORY INSTRUMENTS

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**1984 No. 1890**

**The Freight Containers (Safety Convention) Regulations 1984**

**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 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,

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- (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.

### **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 subparagraph 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 approval plate, except that if construction of the container commenced before 1st January 1984 then compliance with this subparagraph 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—

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- (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.

4th December 1984

*Peter Bottomley*  
Joint Parliamentary Under Secretary of State  
Department of Employment