1992 No. 2

HEALTH AND SAFETY

Freight Containers (Safety Convention) Regulations (Northern Ireland) 1992

Made	*6th January 1992*
Coming into operation . .	*10th February 1992*

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Schedule — Safety approval plate.

The Department of Economic Development and the Department of the Environment acting jointly as the Department concerned(**a**) in exercise of the powers conferred by Articles 17(1), (2), (4), (5) and (6), 40(2) and (4) and 55 of, and paragraphs 1(1), (2) and (3), 3(1) and 5(1) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Freight Containers (Safety Convention) Regulations (Northern Ireland) 1992 and shall come into operation on 10th February 1992.

(**a**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**b**) S.I. 1978/1039 (N.I. 9)

Interpretation

2. In these Regulations—

"approval" has the meaning assigned to it by regulation 4(1)(*a*);

"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,

(*b*) designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading,

(*c*) designed to be secured or readily handled, or both, having corner fittings for these purposes, and

(*d*) of a size 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" in relation to any container 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;

"the Department" means the Department of Economic Development;

"the Health and Safety Executive" means the Health and Safety Executive established under section 10 of the Health and Safety at Work etc. Act 1974(**a**);

"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**) 1974 c. 37

(*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; or

(*b*) if the container is not loaded with goods,

(i) transport to a place for testing the container to obtain approval, or

(ii) delivery of the container to its purchaser by the vendor or his agent.

Application of Regulations

3. These Regulations apply to any container used at work or supplied for use at work.

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 issued in accordance with regulation 5 (hereinafter referred to as "an approval");

(*b*) it has a valid safety approval plate fixed to it in accordance with regulation 6;

(*c*) it is properly maintained;

(*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.

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

(*a*) it has a valid approval plate 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.

(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 the container.

(4) 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 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 (whether relating to a design type or to an individual container) shall for the purposes of these Regulations be valid only if—

(*a*) it has been issued:

(i) by the Department;

(ii) by a person or body of persons appointed for the time being by the Department in accordance with paragraph (3);

(iii) under and in accordance with regulation 5 of the Freight Containers (Safety Convention) Regulations 1984(**a**); or

(iv) 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) An approval shall cease to be valid for the purposes of paragraph (1) if—

(*a*) the person which issued it states in writing that it is no longer valid, or

(*b*) (whether or not it was issued by the Department) the Department states in writing that it is no longer valid.

(3) The Department may appoint in writing such persons 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 Department in writing.

Fixing of safety approval plate

6. For the purpose of these Regulations a container has a valid safety approval plate fixed to it if—

(**a**) S.I. 1984/1890