1992 No. 2

HEALTH AND SAFETY

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

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

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 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

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

(*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 Department for the purposes of this regulation or by the Health and Safety Executive for the purposes of regulation 7 of the Freight Containers (Safety Convention) Regulations 1984.

(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 referred to in paragraph (1) requires to be marked.

(3) A fee of £75 is payable by the applicant therefor to the Department for approval of a scheme or programme under paragraph (1).

(4) Compliance with the procedure adopted by the State (other than the United Kingdom) for the examination of any container where the owner is permanently resident or incorporated shall be deemed to be in compliance with this regulation provided that 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) the Department 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 Department 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.

Sealed with the Official Seal of the Department of Economic Development on 3rd January 1992.

(L.S.) *A. W. Hamilton*
Assistant Secretary

Sealed with the Official Seal of the Department of the Environment on 6th January 1992.

(L.S.) *Trevor Pearson*
Assistant Secretary

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,

(*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,

(*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 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 11th May 1992 (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 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 containers (as the term is defined in regulation 2) 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.

Regulations 4 and 5 impose a requirement that a container should have a valid approval issued by the Department of Economic Development or a body which it has appointed for that purpose, or by or under the authority of a Government which has acceded to the Convention, or under and in accordance with regulation 5 of the Freight Containers (Safety Convention) Regulations 1984.

Regulation 4 also imposes a requirement 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 Department of Economic Development or the Health and Safety Executive in Great Britain.

Regulation 4 imposes a further requirement that a container should have a valid safety approval plate fixed to it in accordance with regulation 6 and that markings on it showing maximum gross weight are consistent with the same information on the safety approval plate. Detailed requirements as to the safety approval plate are set out in the Schedule.

The Regulations provide for certain defences for persons in criminal proceedings under them (regulation 4(4)) and for the Department of Economic Development to grant exemptions (regulation 8).

A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction to a fine not exceeding £2,000, or, on conviction on indictment, to a fine.