

FREIGHT CONTAINERS (SAFETY) (APPLICATIONS FOR APPROVAL OF CONTAINERS) REGULATION

(Made under section 27 of the Freight Containers (Safety) Ordinance (Cap. 506))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Economic Services by notice published in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires---

"approved container" (批准貨櫃) means a container in respect of which an approval is issued under section 5(4)(a) of the Ordinance;

"approved design type" (批准定型設計) means a container design type in respect of which an approval is issued under section 6(4)(a) of the Ordinance;

"approving authority" (批准當局) means the Director or an authorized person appointed under section 5(5) or 6(7) of the Ordinance;

"safety requirements and test standards" (安全規定及測試標準) means the structural safety requirements and test standards specified in Schedule 1 to the Ordinance.

Approval of individual container

3. Application for approval of individual container

An application under section 5 of the Ordinance for the issue of an approval in respect of an individual container shall contain or be accompanied by---

- (a) all drawings, calculations (if any) and specifications relating to the container;
- (b) a representation of the identifying symbols which the applicant proposes to allocate to the container;
- (c) the name and address of the owner of the container; and
- (d) if any previous application in respect of the container has been refused---
 - (i) the name of the applicant;
 - (ii) the date of the application;
 - (iii) the reference number allocated to the application; and
 - (iv) the reasons of refusal.

4. The manner that applicant shall present container for examination

For the purpose of section 5(3) of the Ordinance, a person who applies for the issue of an approval in respect of an individual container shall present or make available the container for examination and testing at the time and place specified by the approving authority.

5. Notification of modification to approved individual container

(1) If an approved container has been modified in a manner resulting in structural changes ("modified container"), the owner of the modified container, either by himself or his agent authorized by him, shall as soon as practicable after the modification in writing notify the approving authority who issued the approval in respect of the container of the modification.

(2) The notice under subsection (1) shall contain---

- (a) the particulars of the modification;
- (b) the time and place at which the modification was carried out; and
- (c) the name and address of the owner and his agent (if any).

(3) Unless the approving authority is satisfied that despite the modification, the modification would not have affected the outcome of the tests carried out in the course of the container approval, he shall send a notice to the owner requiring the owner to present or make available the container for examination and testing at the time and place specified in the notice, and specifying the test to be carried out on that occasion.

(4) If having examined and witnessed the testing of the modified container, the approving authority is not satisfied that the container meets the safety requirements and test standards, he shall send a notice to the owner requiring the owner to present or make available the container for re-examination and re-testing at the time and place specified in the notice, and specifying the test to be carried out on that occasion.

(5) Where---

- (a) the owner does not present or make available the modified container for examination and testing at the time and place specified in a notice under subsection (3) or (4); or
- (b) the approving authority, having re-examined and witnessed the re-testing of the modified container under subsection (4), is not satisfied that the modified container meets the safety requirements and test standards, and if the approving authority exercises his power to declare the approval issued in respect of the container to be no longer valid under section 9(2) of the Ordinance (and if the approving authority is not the Director), he shall notify the Director.

(6) Where the approving authority---

- (a) is satisfied that despite the modification, the modification would not have affected the outcome of the tests carried out in the course of the container approval; or
- (b) having examined and witnessed the testing of the modified container referred to

in subsection (3) or (4), is satisfied that the modified container meets the safety requirements and test standards,

he shall endorse the approval issued in respect of the container stating that the approving authority has been notified of the modification and that the modification does not affect the validity of the approval.

(7) An owner of a modified container who uses or permits the container to be used without notifying the approving authority of the modification under subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

Approval by design type

6. Application for approval by design type

(1) An application under section 6 of the Ordinance for the issue of an approval in respect of a container design type shall contain or be accompanied by---

- (a) all drawings, calculations and specifications relating to the design type;
- (b) a representation of the identifying symbols which the applicant proposes to allocate to any container to be manufactured in accordance with the design type;
- (c) the name and address of the owner of the design type;
- (d) if any previous application in respect of the design type has been refused--

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- (i) the name of the applicant;
- (ii) the date of the application;
- (iii) the reference number allocated to the application; and
- (iv) the reasons of refusal; and

(e) an undertaking given by the applicant that the relevant requirements under section 9 will be complied with.

(2) An application under section 6 of the Ordinance for the issue of an approval in respect of a container design type may state that the design type is a modification of an existing approved design type and (if there is such a statement) shall, in addition to any documents or information otherwise required under subsection (1)(a) to (e), contain or be accompanied by---

- (a) the approval reference of the existing design type; and
- (b) particulars of the respect to which the design type in the application differs from the existing design type.

7. The manner that applicant shall present prototype container for examination

For the purpose of section 6(3) of the Ordinance, a person who applies for the issue of an approval in respect of a container design type shall present or make available a prototype container of the design type for examination and testing at the time and place specified by the approving authority.

Production of design type series

8. Production of new series of containers in accordance with approved design type

(1) Where any person proposes to manufacture a new series of containers in accordance with an approved design type, he shall inform the approving authority and (if practicable) the person to whom an approval has been granted in respect of the design type of the proposed production not less than 3 days prior to the commencement of production of the containers.

(2) For the purpose of section 6(6)(b) of the Ordinance, the person who proposes to manufacture a new series of containers shall make all necessary arrangements to enable the approving authority---

(a) prior to the commencement of the production, to inspect the manufacturer's quality control measures and the manufacturing process of the containers; and

(b) during the course of the production---

(i) to inspect and check the dimensions of any selected container; and

(ii) to carry out or witness the carrying out of the tests specified in subsection (3) on the containers selected at random at the ratio stipulated in subsection (4).

(3) The tests specified for the purpose of subsection (2)(b)(ii) are as follows---

(a) a concentrated load test on the floor of the container as specified in item 3 of Schedule 1 to the Ordinance; and

(b) a lifting test from the top corner fittings (or, where no top corner fittings are fitted, from the bottom corner fittings) as specified in item 1 of that Schedule.

(4) The ratio stipulated for the purpose of subsection (2)(b)(ii) is---

(a) at least one container in every 50 (or in every batch, where the batch number is less than 50); or

(b) at least one container in every 100 (or in every batch, where the batch number is less than 100) if the approving authority considers that the existing circumstances justify a reduction in the rate of testing and the reduced rate of testing has been approved by him.

Duties of applicant after being issued with approval

9. Duties of person who has been issued with approval in respect of container design type

(1) For the purpose of section 8(2), a person who has been issued with an approval in respect of a container design type---

(a) shall grant all necessary facilities to the approving authority for the purpose of inspecting the manufacturer's quality control measures and the manufacturing

process of the container; and

(b) shall present or make available the container that is manufactured in accordance with the approved design type and selected by the approving authority at the time and place specified by the approving authority for the purpose of inspection and testing.

(2) Where an approval reference has been allocated by the approving authority to a design type approved by him, the person referred to in subsection (1) shall not use the approval reference, or permit it to be used, in respect of any container unless that container conforms in every material particular with the approved design type.

(3) The person referred to in subsection (1) shall keep a record of all the containers manufactured in accordance with the approved design type and the record shall contain the following particulars in respect of each container---

- (a) the number marked in line 3 of the safety approval plate;
- (b) the month and year of manufacture;
- (c) the date of delivery by the manufacturer to the customer; and
- (d) the name and address of the customer to whom it was delivered.

Miscellaneous matters

10. Giving reasons of refusal

Where an approving authority refuses an application for the issue of an approval in respect of---

- (a) a container under section 5(4)(b) of the Ordinance; or
 - (b) a container design type under section 6(4)(b) of the Ordinance,
- he shall notify the applicant in writing of the decision and the reasons of refusal.

11. Declaration that approval is no longer valid

(1) If a declaration under section 9(2) of the Ordinance is made in respect of non-compliance with any requirements of the Ordinance or this Regulation, the person who makes the declaration shall state in the declaration the reasons for the declaration and the date on which the declaration is made.

(2) The person who makes the declaration shall---

(a) within 30 days after the date of the declaration, send a notice of the declaration in writing to---

(i) the person to whom the approval was issued; and

(ii) (if the declaration was made by a person other than the Director) the Director; and

(b) cause a notice of the declaration to be published in the Gazette within 30 days after the date of the declaration.

(3) A declaration shall not take effect unless subsections (1) and (2) have been complied with.

Ms. Sandra LEE
Secretary for Economic Services
29 May 2001

Explanatory Note

The purpose of this Regulation is to specify the details of the application for the approval of a container or container design type under sections 5 and 6 of the Freight Containers (Safety) Ordinance (Cap. 506).

2. Section 2 sets out the definitions used in the Regulation.
3. Section 3 prescribes the documents and information to be provided in an application for approval of individual container.
4. Section 4 prescribes the manner of presenting a container for examination and testing.
5. Section 5 provides that an owner of a modified container shall notify the approving authority of the modification.
6. Section 6 prescribes the documents and information to be provided in an application for approval by design type. Additional information may be provided in the application in case the design type is a modification of an existing approved design type.
7. Section 7 prescribes the manner of presenting a prototype container for examination and testing.
8. Section 8 specifies the arrangements for the production of a new series of containers in accordance with an approved design type.
9. Section 9 provides for the duties of the person who has been issued with an approval in respect of a container design type.
10. Section 10 provides that an approving authority shall notify the applicant if he refuses an application for the issue of an approval under section 5(4)(b) or 6(4)(b) of the Ordinance.
11. Section 11 provides for the manner of making of a declaration under section 9(2) of the Ordinance.