

L.N. 113 of 2001

FREIGHT CONTAINERS (SAFETY) (ARRANGEMENTS  
FOR AUTHORIZED PERSONS) ORDER

(Made under section 8 of the Freight Containers  
(Safety) Ordinance (Cap. 506))

1. Commencement

This Order 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 Order, unless the context otherwise requires---

"approval" (批准) means an approval issued under section 5 or 6 of the Ordinance; "Regulation" (《規例》) means the Freight Containers (Safety) (Applications for Approval of Containers) Regulation (L.N. 111 of 2001).

3. Appointment of authorized person

(1) A person is eligible for appointment as an authorized person if the person is a full member of the International Association of Classification Societies.

(2) An authorized person shall indemnify the Director against any claims brought against the Director in respect of any damage or loss arising out of, or in connection with, the authorized person's performance or purported performance of his functions under the Ordinance.

(3) The authorized person shall take out and keep in force a policy of insurance that insures him in respect of his liability under subsection (2) to indemnify the Director for an amount equal to the amount of any reasonably foreseeable liability under that subsection.

4. Functions of authorized person

(1) The functions of an authorized person are---

(a) to determine applications for the issue of an approval in respect of a container under section 5 of the Ordinance;

(b) to determine applications for the issue of an approval in respect of a container design type under section 6 of the Ordinance;

(c) to determine whether any modification to an individual container shall result in withdrawal of approval; and

(d) to determine whether any test facilities to be used in carrying out tests under the Regulation and sections 5 and 6 of the Ordinance are adequate.

(2) The authorized person may be assisted by any trained and experienced technical and administrative staff in performing his functions.

5. Records to be kept by authorized person

(1) An authorized person shall---

- (a) keep copies of all applications for approval, and all drawings, calculations, specifications and other information supplied in connection with each application;
- (b) keep a record of all the inspections and tests that he has carried out or witnessed under the Regulation;
- (c) keep copies of each approval issued by him; and
- (d) keep copies of each notice received or sent by him under the Regulation.

(2) Except as provided in subsections (3) and (4), the authorized person shall preserve confidentiality with regard to all information that comes to his knowledge in the performance of his functions under the Ordinance.

(3) The authorized person shall, if requested by the Director, and as soon as is reasonably practicable after receiving the request, provide the Director a record (or a copy of the record certified by the authorized person) of all the inspections and tests that he has carried out or witnessed under the Regulation.

(4) The authorized person shall, if requested by any of the following persons, and as soon as is reasonably practicable after receiving the request, provide a copy of any approval he has issued in respect of a container---

- (a) any bailee or lessee of the container;
- (b) any owner of the container;
- (c) the Director.

(5) A record required to be kept under subsection (1) shall be kept---

- (a) in the case of a record relating to an application that has been refused under section 5(4)(b) or 6(4)(b) of the Ordinance, for 5 years after the date of refusal of the application; and
- (b) in the case of a record relating to an application in respect of which an approval has been issued under section 5(4)(a) or 6(4)(a) of the Ordinance, throughout the lifetime of the container to which the approval relates.

## 6. Revocation of appointment of authorized person

(1) The Director may revoke the appointment of an authorized person if he is satisfied on reasonable grounds that the authorized person---

- (a) has failed to comply with any requirement under section 3 or 5; or
- (b) has failed to perform any function conferred on him under the Ordinance or specified in section 4 with the highest degree of professional integrity and technical competence.

(2) The Director may revoke the appointment of an authorized person only after giving the authorized person an opportunity to make representations (either orally or in writing or both) as to why the appointment should not be revoked.

(3) If the Director revokes the appointment of an authorized person, he shall notify the authorized person in writing of the revocation and state in the notice

the reasons for the revocation.

S. Y. TSUI

Director of Marine

22 May 2001

Explanatory Note

The purpose of this Order is to prescribe arrangements in relation to the appointment of authorized persons under sections 5 and 6 of the Freight Containers (Safety) Ordinance (Cap. 506) and the performance of those persons' functions conferred under those sections.

2. Section 3 provides for the conditions of eligibility for appointment as an authorized person.
3. Section 4 specifies the functions of an authorized person.
4. Section 5 requires the authorized person to keep records relating to the approval of containers and container design type.
5. Section 6 provides for the circumstances under which the Director of Marine may revoke the appointment of an authorized person.