

LN114e

Freight Containers (Safety) (Examination  
Procedure) Order

(Made under section 12(1)(a) 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---

"competent person" (合資格人士) means a person appointed under section 5;

"continuous examination programme" (持續檢驗方案) means a procedure for examination in accordance with this Order the frequency of which is as provided in section 4(2);

"owner" (擁有人), in relation to a container, means---

(a) the owner of the container;

(b) if there is a bailment of the container which contains an express term that the bailee shall ensure that the container is examined, the owner and the bailee of the container; or

(c) if there is a lease of the container which contains an express term that the lessee shall ensure that the container is examined, the owner and the lessee of the container;

"periodic examination scheme" (定期檢驗計劃) means a procedure for examination in accordance with this Order the frequency of which is as provided in section 4(1);

"report" (報告) means a report issued under section 9.

3. Application

This Order applies to containers which have valid approval in accordance with the Ordinance.

4. Frequency of examinations

(1) Except as provided in subsection (2), a container shall be examined in accordance with the following schedule---

(a) the container shall be first examined within 5 years from the date of manufacture; and

(b) after that, the container shall be examined ---

(i) at intervals of not more than 30 months; or

(ii) if on any occasion, a date is specified under section 8(b)(i), before that date.

(2) If on the application of an owner of a container, the Director has approved a continuous examination programme for the examination of the container under section

13(3)(a) of the Ordinance, then the container shall be examined in accordance with the following schedule---

(a) the container shall be first examined at the time of any major repair or refurbishment or on-hire or off-hire interchange, but in any case not more than 30 months after the date of approval of such a programme; and

(b) after that, the container shall be examined at the time of any major repair or refurbishment or on-hire or off-hire interchange---

(i) but in any case not more than 30 months after the date of last examination; or

(ii) if on any occasion, a date is specified under section 8(b)(i), before that date.

#### 5. Competent person

The owner of a container shall appoint a person who has sufficient knowledge and experience of the structure of containers (a "competent person") to carry out the examination of the container for the purposes of this Order.

#### 6. Manner of carrying out examinations

In an examination of a container, it is the responsibility of the owner of the container---

(a) within a reasonable time before the examination, to empty and clean the container and prepare it for the examination, if so required by the competent person who carries out the examination;

(b) to have available suitable means of lifting and supporting the container, so that the whole of the underside can be made accessible for examination by the competent person, if so required by the competent person; and

(c) to provide, at all material times, safe means of access and egress, a safe place of work, sufficient lighting and other facilities necessary to allow the examination to be carried out safely and effectively.

#### 7. Matters to be examined and procedure of examination

(1) A competent person carrying out an examination of a container shall visually examine the exterior, and if reasonably practicable, the interior of the container in detail.

(2) The competent person shall examine all load bearing parts, including the base structure.

(3) The competent person may, if he has reason to believe that the insulation may cover any significant defect, require the removal of the insulation as may be necessary to uncover the suspected defects.

(4) The competent person shall examine the underside of the container, and this

shall be done---

- (a) when the container is resting on a skeletal trailer; or
- (b) if he considers it necessary, when the container is lifted onto other supports.

(5) The competent person shall in particular examine the container as to---

- (a) the presence of any corrosion;
- (b) the condition of any welding;
- (c) the condition of any riveting or similar method of fastening;
- (d) the presence of any mechanical damage;
- (e) the condition of the following structural components where fitted---
  - (i) corner fittings;
  - (ii) grapple arm positions;
  - (iii) fork lift pockets;
  - (iv) floor;
  - (v) upper and lower side rails;
  - (vi) floor bearers;
  - (vii) end frames (and fixings in the case of folding end frames);
  - (viii) door and hatch closure gear;
  - (ix) roof; and
  - (x) external panelling;
- (f) the validity of the safety approval plate; and
- (g) whether any structural modification has been made to the container.

8. Matters to be determined by competent person at conclusion of examination

The competent person shall, at the conclusion of an examination of a container---

(a) determine whether the container has any defect which could result in prejudice to the health or safety of any person;

(b) if under paragraph (a) he has determined that---

(i) the container has no such defect, then determine whether, having regard to the condition of the container, the next examination of the container shall take place before the expiry of an interval of 30 months and if so, before what date; or

(ii) the container has any such defect, then determine whether nevertheless it is capable of proceeding safely to its destination.

9. Duties of competent person if he found no defect in container after examination

Having determined under section 8 that the container is free from any defect which could result in prejudice to the health or safety of any person, the competent person shall as soon as practicable issue to the owner of the container a signed report---

(a) stating that in his opinion the container was, at the time of his examination, free from any defect which could result in prejudice to the health or safety of any person and that the information in paragraph (b) is correct; and

(b) containing---

(i) the identification number of the container as marked in line 3 of the safety approval plate;

(ii) the date on which the examination was carried out;

(iii) details of any tests carried out, the method of testing and the results of such tests;

(iv) for a container examined whether under a periodic examination scheme or a continuous examination programme, the date on which the 30 months interval (from the date on which the examination was carried out) expires or such a date, if any, determined under section 8(b)(i); and

(v) sufficient information to identify the competent person and his employer, if any.

10. Duties of owner if container found to have no defect after examination

(1) As soon as practicable after the owner has received a report issued in respect of a container, he shall, for the purpose of section 12(3) of the Ordinance, ensure---

(a) for a container examined under a periodic examination scheme---

(i) that the dates (month and year) of the first examination and subsequent examinations of the container are marked on or as close as practicable to the safety approval plate of the container;

(ii) as an alternative to subparagraph (i), that a decal, which meets the requirements set out in the Schedule, is fixed on or as close as practicable to the safety approval plate of the container; or

(b) for a container examined under a continuous examination programme, that a decal (showing the legend "ACEP---HK" followed by a number to be allocated by the Director on approval of the programme) is fixed on or as close as practicable to the safety approval plate of the container.

(2) Where a bailment or lease of a container does not contain an express term that the bailee or lessee, as the case may be, shall ensure that the container is examined, the owner of the container shall provide the latest report issued in respect of the container or a copy of such a report to the bailee or lessee as soon as practicable after each examination.

11. Duties of competent person if he found defects in container after examination

(1) If having carried out an examination, he is of the opinion that a container

has any defect which could result in prejudice to the health or safety of any person, the competent person shall determine whether the container can be made safe for the purpose of proceeding to its destination.

(2) Having made a determination under subsection (1), the competent person shall immediately notify---

- (a) the person who is in charge of or who has custody of the container;
  - (b) the owner if the owner is not in charge of or does not have custody of the container;
- and
- (c) the Director,
- in writing of his determination.

## 12. Keeping records

(1) The owner to whom a report was issued in respect of a container shall keep the report until transfer of ownership of the container or such time as he receives a report of subsequent examination issued in respect of the container.

(2) The owner shall, if requested by the Director, and as soon as reasonably practicable after receiving the request, provide the report for the inspection by the Director.

(3) The owner shall at the time of transfer of ownership of the container provide the latest report, if any, he received before the transfer or a copy of such a report to any subsequent owner (other than the bailee or lessee) of the container.

## SCHEDULE [s. 10]

### Requirements under Section 10(1)(a)(ii)

A decal used to indicate the date of first examination and subsequent examinations of a container shall---

- (a) show the relevant date (month and year) in internationally recognizable words or figures; and
- (b) comply with the colour code specified in the following Table, and it shall indicate the year of examination after 2021 by the colours of the following sequence: brown, blue, yellow, red, black and green.

### TABLE

| Colour | Year of Examination |      |      |      |
|--------|---------------------|------|------|------|
| Brown  | 1998                | 2004 | 2010 | 2016 |
| Blue   | 1999                | 2005 | 2011 | 2017 |
| Yellow | 2000                | 2006 | 2012 | 2018 |
| Red    | 2001                | 2007 | 2013 | 2019 |
| Black  | 2002                | 2008 | 2014 | 2020 |
| Green  | 2003                | 2009 | 2015 | 2021 |

S. Y. TSUI

Director of Marine

22 May 2001

Explanatory Note

The purpose of this Order is to provide for the details of the examination procedure for containers under section 12 of the Freight Containers (Safety) Ordinance (Cap. 506).

2. Section 2 sets out the definitions used in the Order.
3. Section 3 states the application of the Order.
4. Section 4 specifies, in the case of a container examined under a periodic examination scheme or a continuous examination programme, the maximum intervals between the examinations.
5. Section 5 provides for the appointment of a competent person.
6. Section 6 provides for the manner of carrying out the examinations.
7. Section 7 lists out the matters to be examined and the procedure of the examination.
8. Section 8 requires the competent person to make certain determinations at the conclusion of the examination.
9. Section 9 lists out the duties of a competent person if he found no defect in the container after the examination.
10. Section 10 specifies the duties of the owner of a container if the container is found to have no defect after the examination.
11. Section 11 requires the competent person to notify the owner, the person who is in charge of the container and the Director of Marine when he found the container has any defect which could result in prejudice to the health or safety of any person.
12. Section 12 requires the owner of a container to keep records.