

Freight Containers (Safety) (Amendment) Bill 2019

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A BILL

To

Amend the Freight Containers (Safety) Ordinance to implement the latest requirements of the International Convention for Safe Containers relating to the manufacture, use and examination of freight containers; to make minor textual amendments; and to provide for related matters.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Freight Containers (Safety) (Amendment) Ordinance 2019.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Freight Containers (Safety) Ordinance amended

The Freight Containers (Safety) Ordinance (Cap. 506) is amended as set out in sections 3 to 12.

3. Section 2 amended (interpretation)

- (1) Section 2(1)—
 - (a) definition of *maximum operating gross weight* or *rating* or *R*;

- (b) definition of *maximum permissible payload* or *P*;
- (c) definition of *tare weight*—

Repeal the definitions.

- (2) Section 2(1)—

Add in alphabetical order

“*Annex II* (《附則 II》) means Annex II to the Convention;

maximum operating gross mass (最大操作總質量), in relation to a container, means the maximum sum of the tare and the mass of the cargo in the container, allowed under Annex II;

maximum permissible payload (最大允許載荷) means the difference between the maximum operating gross mass and the tare;

tare (皮重), in relation to a container, means the mass of the container when empty and includes the mass of any permanently affixed ancillary equipment of the container.”.

4. Section 4 amended (conditions of use)

- (1) Section 4(1)—

Repeal

“use or”

Substitute

“use the container or”.

- (2) Section 4(1)(e)—

Repeal

“weight” (wherever appearing)

Substitute

“mass”.

- (3) Section 4(2)(a), (b) and (c)—

Repeal

“use or”

Substitute

“use the container or”.

- (4) Section 4(2)(d)—

Repeal

“weight” (wherever appearing)

Substitute

“mass”.

- (5) Section 4(2)(d)—

Repeal

“use or”

Substitute

“use the container or”.

- (6) Section 4(3)—

Repeal

“using or”

Substitute

“using a container or”.

5. Section 5 amended (approval of containers individually)

- Section 5(3) and (4)(a)—

Repeal

“and test standards specified in Schedule 1”

Substitute

“, and test standards, specified in Annex II”.

6. Section 6 amended (approval by design type)

Section 6(3) and (4)(a)—

Repeal

“and test standards specified in Schedule 1”

Substitute

“, and test standards, specified in Annex II”.

7. Section 10 amended (fixing of safety approval plate)

Section 10(2)—

Repeal paragraph (a)

Substitute

“(a) the safety approval plate is marked and fixed to the container in accordance with—

- (i) if the construction of the container was completed before 1 July 2014 and no structural modification has ever been made to the container—Schedule 2 as in force immediately before the commencement date of the Freight Containers (Safety) (Amendment) Ordinance 2019 (of 2019); or

(ii) otherwise—Schedule 2;”.

8. Section 10A amended (removal of safety approval plate)

Section 10A(1)(a)(i)—

Repeal

“and test standards specified in Schedule 1”

Substitute

“, and test standards, specified in Annex II”.

9. Section 14 amended (containers which have no safety approval plate or which have an incorrectly completed plate)

Section 14(2)(b)(ii)—

Repeal

“and test standards specified in Schedule 1”

Substitute

“, and test standards, specified in Annex II”.

10. Section 27 amended (regulations)

(1) Section 27(1)—

Repeal

everything after “giving effect”

Substitute

“(whether in whole or in part) to an international agreement relating to the safety of freight containers adopted by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong.”.

(2) After section 27(2)—

Add

“(3) Regulations made under this section may—

- (a) set out, or refer directly to, the whole or a part of an international agreement referred to in subsection (1); and
- (b) specify amendments, modifications or adaptations subject to which the whole or a part of an international agreement referred to in subsection (1) is to have effect.”.

11. Schedule 1 repealed (structural safety requirements and tests)

Schedule 1—

Repeal the Schedule.**12. Schedule 2 substituted**

Schedule 2—

Repeal the Schedule**Substitute****“Schedule 2**

[ss. 2, 10 & 28]

Safety Approval Plate**1. Marking of plates**

- (1) A safety approval plate must be marked in accordance with the requirements set out in the appendix to Annex I to the Convention.
- (2) The markings must be in English or French, whether or not in addition to any other language.
- (3) This section does not prevent also marking the plate by means of a decal for the purposes of an examination scheme or programme under section 10 of the Freight Containers (Safety) (Examination Procedure) Order (Cap. 506 sub. leg. D).

2. Additional marking requirements for plates of containers with limited stacking or racking capacity

- (1) This section applies to a container with—
 - (a) a stacking value of less than 192 000 kg; or

- (b) a racking value of less than 150 kN.
- (2) The safety approval plate of a container must also be marked conspicuously in accordance with the International Standard ISO 6346, Freight containers — Coding, identification and marking published by the International Organization for Standardization in 1995.

3. Fixing of plates

A safety approval plate must be permanently fixed to a container in a position so that it is—

- (a) readily visible;
 - (b) adjacent to any other officially approved plate fixed to the container; and
 - (c) not likely to be easily damaged.”.
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Explanatory Memorandum

The International Convention for Safe Containers (*Convention*) was adopted by the International Maritime Organization (*IMO*) in 1972. The Convention prescribes safety standards and procedures for the use of freight containers. The purpose of this Bill is to amend the Freight Containers (Safety) Ordinance (Cap. 506) (*Ordinance*) to implement the latest technical requirements provided in the Convention (*new requirements*) by giving effect to IMO Resolutions MSC.310(88) and MSC.355(92).

2. Clause 1 sets out the short title and provides for commencement.
3. Clause 3 amends section 2 of the Ordinance to repeal certain existing definitions and add new definitions used in the Ordinance to reflect the latest terminology adopted in the Convention.
4. Clause 4 amends section 4 of the Ordinance to make minor textual amendments, and to replace the references to “weight” by “mass”, following the change adopted in the Convention to align with the International System of Units.
5. Clause 7 amends section 10 of the Ordinance to provide that if the construction of a container was completed before 1 July 2014 and no structural modification has ever been made to the container, the new requirements do not apply to the valid safety approval plate fixed to the container.

6. Section 27 of the Ordinance empowers the Secretary for Transport and Housing to make regulations under the Ordinance. Clause 10 amends that section to expressly provide that the regulations may adopt a direct reference approach to refer directly to international agreements as revised or amended from time to time.
7. Currently, Schedule 1 to the Ordinance sets out the requirements for the structural safety and tests of containers. Consequential to the repeal of that Schedule, clauses 5, 6, 8 and 9 amend sections 5, 6, 10A and 14 of the Ordinance respectively to make direct references to Annex II to the Convention.
8. Clause 12 replaces the existing Schedule 2 to the Ordinance with a new Schedule 2 to provide for the latest requirements for the marking and fixing of safety approval plates, including the additional marking requirements for plates of containers with limited stacking or racking capacity.