

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Health and Safety at Work (Freight Containers Safety Convention) Ordinance, 1992 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Recueil d'Ordonnances Tome XXVI, p. 26. This Ordinance is applied, in part, to persons at work within the territorial waters of Guernsey by the Renewable Energy (Guernsey) Law, 2010 (No. XIV of 2011). See also the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 (Recueil d'Ordonnances Tome XXIV, p. 162); the Health and Safety (Fees) Order, 2021 (G.S.I. No. 38 of 2021).

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The Health and Safety at Work (Freight Containers Safety Convention) Ordinance, 1992

ARRANGEMENT OF SECTIONS

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SCHEDULE Safety approval plate.

(Made on 1st May, 1992.)

The Health and Safety at Work (Freight Containers Safety Convention) Ordinance, 1992

THE STATES, in pursuance of their Resolution of the 14th February 1991^a and in exercise of the powers conferred on them by sections 3 and 5(a) of the Health and Safety at Work etc. (Guernsey) Law, 1979^b and sections 2 and 3 of the Health, Safety and Welfare of Employees Law, 1950^c, hereby order: –

Application of Ordinance.

1. This Ordinance applies to any container used at work, or supplied for use at work, and which is in Guernsey.

NOTES

In accordance with the provisions of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 35(1), Schedule 4, with effect from 1st December, 1987, this enactment is one of those to be regarded as "relevant statutory provisions" for the purposes of the 1987 Ordinance.

In accordance with the provisions of the Health and Safety (Fees) Order, 2021, with effect from 1st June, 2021, the fees payable for the provision of services or documents, under or for the purposes of, or in connection with the exercise of any function arising under this Ordinance and any subordinate legislation made hereunder are as contained in article 3 thereof.

In accordance with the provisions of the Renewable Energy (Guernsey) Law, 2010, section 5(1), with effect from 30th May, 2012 and subject to subsection (3) of that section, this Ordinance shall apply to and in relation to persons at work (within the meaning of the Health and Safety at Work etc. (Guernsey) Law, 1979) within the territorial waters of Guernsey where such work is carried on in connection with the activities as set out in the said section 5.

a Article XX of Billet d'État No. II of 1991.

b Ordres en Conseil Vol. XXVII, p. 115.

c Ordres en Conseil Vol. XIV, p. 312.

Conditions of use.

2. (1) The owner or lessee of a container shall not use it, or permit it to be used, unless –

- (a) it has valid approval in accordance with section 3,
- (b) it has a valid safety approval plate fixed to it in accordance with section 4,
- (c) it is properly maintained,
- (d) the examination requirements in section 5 are met in respect of it, 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 other person using or permitting the use of a container shall, so far as is reasonably practicable, ensure that –

- (a) a valid safety approval plate is fixed to it in accordance with section 4, 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 subsection (2), ensure that –

- (a) it is properly maintained, and
- (b) the examination requirements in section 5 are met in respect of it.

(4) It is a defence to any proceedings for using or permitting to be used a container 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, as the case may be, 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.

3. (1) The approval referred to in section 2(1)(a) may relate to a design type or to an individual container and, in either case, is only valid if –

- (a) it has been issued –
 - (i) by the Board, or
 - (ii) by a person or body of persons appointed for the purpose for the time being by the Board in writing, or
 - (iii) 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 to be valid.

(2) An approval ceases to be valid when the person to whom it was issued is so notified in writing by –

- (a) the person who, or body of persons which, issued the approval, or
- (b) the Board (whether or not it was issued by the Board).

(3) An appointment for the purposes of subsection (1)(a)(ii) may be subject to conditions and limited as to time, and may be varied or revoked by the Board in writing.

Fixing of safety approval plate.

4. A container only has a valid safety approval plate fixed to it if –
- (a) the safety approval plate is marked and fixed to the container in accordance with the Schedule, and
 - (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 section 5 and before it is again used.

Examination of containers.

5. (1) The examination referred to in section 2(1)(d) and (3)(b) shall be in accordance with an examination scheme or programme approved by the Board for the purposes of this Ordinance.

(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 requires to be so marked.

(3) This section shall be deemed to have been complied with in the

case of a container whose owner is permanently resident, or is incorporated, in a place whose Government has ratified, accepted, approved or acceded to the Convention if a procedure prescribed by that Government, or by any organisation authorised by it to act on its behalf, for the purpose of the Convention has been complied with.

Exemptions.

6. (1) Subject to subsection (2) the Board may by certificate in writing exempt any container or class of containers, or any person or class of persons, to which this Ordinance applies from any requirement or prohibition imposed by this Ordinance; 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 Board 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.

Penalties for contraventions etc.

7. (1) A person convicted pursuant to section 4 of the Health and Safety at Work etc. (Guernsey) Law, 1979 of an offence under this Ordinance is liable –

- (a) on summary conviction, to a fine not exceeding level 4 on the uniform scale,

(b) on conviction on indictment, to a fine.

(2) This section is without prejudice to section 29 of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987^d.

Interpretation and construction.

8. (1) In this Ordinance, unless the context otherwise requires –

"Board" means the States Board of Employment, Industry and Commerce,

"the Convention" means the International Convention for Safe Containers signed at Geneva on 2nd December, 1972,

"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 such that the area enclosed by the outer bottom corners is either –

^d Recueil d'Ordonnances Tome XXIV, p. 162.

- (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" 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,

"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 in 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 does not include –

- (a) movement to a place for remedial action, provided that:
 - (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,

(b) if the container is not loaded with goods –

(i) transport to a place for testing the container to obtain approval under section 3, or

(ii) delivery of the container to its purchaser by the vendor or his agent.

(2) Unless the context otherwise requires, any reference in this Ordinance to –

(a) a numbered section is a reference to the section of this Ordinance which bears that number,

(b) a numbered subsection is a reference to the subsection so numbered in the section in which the reference appears,

(c) "**the Schedule**" is a reference to the Schedule to this Ordinance,

(d) any document is a reference to that document as revised or re-issued from time to time.

(3) This Ordinance is to be construed as one with the Health and Safety at Work (General) (Guernsey) Ordinance, 1987.

Citation.

9. The Ordinance may be cited as the Health and Safety at Work (Freight Containers Safety Convention) Ordinance, 1992.

Commencement.

10. The Ordinance shall come into force on 1st May, 1992.

SCHEDULE
SAFETY APPROVAL PLATE

Sections 2 and 4

1. A safety approval plate 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. A safety approval plate shall –

- (a) be in the form prescribed by figure 1 of this Schedule,
- (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) of this paragraph and by figure 1 of this Schedule 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 purpose 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

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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 – (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 above purposes (a) and (b) if they are not required to contain other information.

Figure 1

CSC SAFETY APPROVAL

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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.