

Chapter:	506	FREIGHT CONTAINERS (SAFETY) ORDINANCE	Gazette Number	Version Date
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		Long title	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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An Ordinance to make provision regarding the safety of freight containers and for connected purposes.  
(Amended 14 of 2006 s. 3)

[10 November 2006] *L.N. 216 of 2006*

(Originally 32 of 1997)

Section:	1	Short title	L.N. 216 of 2006	10/11/2006
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### Preliminary

- (1) This Ordinance may be cited as the Freight Containers (Safety) Ordinance.
- (2) (Omitted as spent)

Section:	2	Interpretation	L.N. 130 of 2007	01/07/2007
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#### Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

- (1) In this Ordinance, unless the context otherwise requires-
- "authorized person" (獲授權人) means any person for the time being appointed by the Director under section 5(5) or 6(7);
- "cargo" (貨物) means any goods, wares, merchandise and articles of any kind carried in a container;
- "container" (貨櫃) and "freight container" (運貨貨櫃) mean 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 cargo 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-
    - (i) at least 7 m<sup>2</sup> if the container is fitted with top corner fittings; or
    - (ii) at least 14 m<sup>2</sup> in any other case,
 whether or not it is being carried on a chassis, but excluding any vehicle or packaging being used in conjunction with the article;

"container design type" (貨櫃定型設計) and "design type" (定型設計) mean a design for a particular type of container specifying the structural details and requirements of the type of container;

"the Convention" (公約) means the International Convention for Safe Containers signed at Geneva on 2 December 1972 as amended from time to time and as applied to Hong Kong;

"corner fittings" (夾角接頭) means an arrangement of apertures and faces at either the top or the bottom, or both at the top and the bottom, of a container for the purpose of handling, stacking or securing the container;

"design type series" (定型設計系列) means, in relation to a container, a container manufactured in accordance with a design type;

"Director" (處長) means the Director of Marine;

"inspector" (督察) means an inspector appointed under section 18;

"maximum operating gross weight" (最大操作總重量) or "rating" (額定重量) or "R" means the maximum allowable combined weight of a container and its cargo;

"maximum permissible payload" (最大准許載貨重量) or "P" means the difference between the maximum operating

gross weight or rating and the tare weight of a container;

"prototype container" (原型貨櫃) means a container representative of those manufactured or to be manufactured in a design type series;

"safety approval plate" (安全合格牌照) means a plate in the form and containing the information specified in Schedule 2;

"Secretary" (局長) means the Secretary for Transport and Housing; (Replaced L.N. 106 of 2002. Amended L.N. 130 of 2007)

"swap body" (互換車體) 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;

"tare weight" (皮重) means the weight of an empty container including permanently affixed ancillary equipment.

(2) In this Ordinance, unless the context otherwise requires, any reference to the use of a container is a reference to the use of the container for the purposes for which the container is designed, but does not include-

- (a) movement of the container to a place for remedial action where-
  - (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 cargo; or
- (b) in the case of a container that is not loaded with cargo-
  - (i) transport to a place for testing the container to obtain approval under sections 5 to 7; or
  - (ii) delivery of the container to its purchaser by the vendor or his agent.

Section:	3	Application	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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(1) Except as provided in subsection (2) and sections 5(1A), 6(5) and 13(1), this Ordinance applies in relation to any container in Hong Kong, whether it is manufactured in Hong Kong or elsewhere. (Replaced 14 of 2006 s. 4)

(2) This Ordinance does not apply in relation to-

- (a) a container designed solely for use in air transport;
- (b) 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.

Section:	4	Conditions of use	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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### Use of containers

(1) The owner of a container shall not use or permit the container to be used unless-

- (a) it has valid approval in accordance with sections 5 to 9;
- (b) it has a valid safety approval plate fixed to it in accordance with section 10;
- (c) it is properly maintained within the meaning of section 11; (Amended 14 of 2006 s. 5)
- (d) the container is examined in accordance with a procedure prescribed or approved under section 12; and (Replaced 14 of 2006 s. 5)
- (e) all markings on the container showing maximum operating gross weight are consistent with the maximum gross weight information on the safety approval plate.

(2) Where it is an express term of a bailment or lease of a container that the bailee or lessee shall be responsible for ensuring that-

- (a) the container has a valid safety approval plate fixed to it in accordance with section 10 or the Convention, he shall not use or permit the container to be used unless a valid safety approval plate is fixed to the container in accordance with section 10;
- (b) the container is maintained, he shall not use or permit the container to be used unless the container is properly maintained within the meaning of section 11;
- (c) the container is examined, he shall not use or permit the container to be used unless the container is examined in accordance with a procedure prescribed or approved under section 12; and
- (d) all markings on the container showing maximum operating gross weight are consistent with the maximum gross weight information on the safety approval plate, he shall not use or permit the

container to be used unless all markings on the container showing maximum operating gross weight are consistent with the maximum gross weight information on the safety approval plate. (Replaced 14 of 2006 s. 5)

(2A) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year. (Added 14 of 2006 s. 5)

(3) It shall be a defence to any proceedings under subsection (2A) for using or permitting a container to be used in contravention of any requirement of subsection (1)(b), (c), (d) or (e) or (2)(a), (b), (c) or (d) that at the time of the contravention a bailment or lease was in force in respect of the container and- (Amended 14 of 2006 s. 5)

- (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 compliance with that requirement;
- (b) in the case of a lessee, 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 compliance with that requirement;
- (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 compliance with that requirement.

Section:	5	Approval of containers individually	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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### Approval of containers

(1A) This section applies in relation to any container, whether it is manufactured or used in Hong Kong or elsewhere. (Added 14 of 2006 s. 6)

(1) Any person may in writing apply to an authorized person appointed under subsection (5) for the issue of an approval under subsection (4) in respect of a container.

(2) An application under this section shall contain the prescribed information and shall be accompanied by the prescribed documents.

(2A) The fee payable to an authorized person in respect of an application under this section shall be-

- (a) of such amount as may be specified by the authorized person; and
- (b) payable in such manner, and within such period, as may be specified by the authorized person. (Added 14 of 2006 s. 6)

(3) An applicant shall arrange for the container to be presented or made available in the manner specified by the authorized person for examination and testing as to the structural safety requirements and test standards specified in Schedule 1.

(4) The authorized person, having examined and witnessed the testing of the container, shall- (Amended 14 of 2006 s. 6)

- (a) if he is satisfied that the container meets the structural safety requirements and test standards specified in Schedule 1, issue an approval in respect of the container; or
- (b) refuse the application.

(5) The Director may in writing appoint one or more persons who appear to him to be suitably qualified and experienced to exercise the powers and perform the functions conferred on an authorized person under this section to be an authorized person.

(Amended 14 of 2006 s. 6)

Section:	6	Approval by design type	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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(1) Any person may in writing apply to an authorized person appointed under subsection (7) for the issue of an approval under subsection (4) in respect of a container design type.

(2) An application under this section shall contain the prescribed information and shall be accompanied by the prescribed documents.

(2A) The fee payable to an authorized person in respect of an application under this section shall be-

- (a) of such amount as may be specified by the authorized person; and
- (b) payable in such manner, and within such period, as may be specified by the authorized person. (Added

14 of 2006 s. 7)

(3) An applicant shall arrange for a prototype container to be presented or made available in the manner specified by the authorized person for examination and testing as to the structural safety requirements and test standards specified in Schedule 1.

(4) The authorized person, having examined and witnessed the testing of the prototype container, shall- (Amended 14 of 2006 s. 7)

- (a) if he is satisfied that any container manufactured in accordance with the design type would meet the structural safety requirements and test standards specified in Schedule 1, issue an approval in respect of the design type; or
- (b) refuse the application.

(5) An approval issued under this section in respect of a design type, while it remains valid, is a valid approval for the purposes of this Ordinance in respect of every container of the design type series, whether the container is manufactured or used in Hong Kong or elsewhere.

(6) Regulations made under section 27 may require the person to whom an approval under this section has been issued to- (Amended 14 of 2006 s. 7)

- (a) notify the authorized person who has issued the approval prior to the commencement of production of each new series of containers to be manufactured in accordance with the approved design type;
- (b) comply with any reasonable request of the authorized person who has issued the approval made for the purpose of ensuring that any such container is manufactured in accordance with the design type.

(7) The Director may in writing appoint one or more persons who appear to him to be suitably qualified and experienced to exercise the powers and perform the functions conferred on an authorized person under this section to be an authorized person.

(Amended 14 of 2006 s. 7)

Section:	7	Approval issued under the Convention outside Hong Kong	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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(1) An approval issued in a country or place outside Hong Kong in respect of a container, being an approval that complies with the requirements specified in subsection (2), while it remains valid, is a valid approval for the purposes of this Ordinance. (Amended 14 of 2006 s. 8)

(2) The approval must-

- (a) be issued by or under the authority of- (Amended 14 of 2006 s. 8)
  - (i) a government of a country which has ratified, accepted, approved or acceded to the Convention; or
  - (ii) a government of a place to which the Convention applies; and (Amended 14 of 2006 s. 8)
- (b) be issued or be deemed to be issued in accordance with the Convention.

Section:	8	Arrangements for approvals by authorized persons	L.N. 216 of 2006	10/11/2006
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(1) The Director may by order in the Gazette prescribe arrangements in relation to the appointment of authorized persons under sections 5 and 6 and the exercise by those persons of the powers and performance of the functions conferred under those sections.

(2) Without affecting the generality of subsection (1), such orders may provide for arrangements concerning-

- (a) conditions of eligibility for appointment as an authorized person;
- (b) the terms of appointment of such persons and their functions;
- (c) the receipt and processing by such persons of applications for approval;
- (d) the procedures for approval of containers by such persons;
- (e) withdrawal of approval in relation to a container by an authorized person pursuant to section 9;
- (f) approval in relation to used or modified containers;
- (g) the duties of applicants for approval after being granted approval.

Section:	9	Validity of approval	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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(1) An approval (whether relating to a design type or an individual container) shall be valid if, and only if, it

has not ceased in accordance with this section to be valid.

(2) If, in the case of an approval issued under section 5 or 6-

(a) the person who issued the approval declares in writing that the approval is no longer valid; or

(b) the Director declares in writing that the approval is no longer valid, (Amended 14 of 2006 s. 9)

then that approval shall cease to be valid for the purposes of subsection (1). (Amended 14 of 2006 s. 9)

(2A) A declaration may be made under subsection (2) only if the container does not comply with any requirement of this Ordinance. (Added 14 of 2006 s. 9)

(3) If, in the case of an approval to which section 7 applies, the person who issued the approval states in writing that it is no longer valid, then that approval shall cease to be valid for the purposes of subsection (1).

Section:	10	Fixing of safety approval plate	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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### Safety approval plate

(1) A safety approval plate shall be fixed to any container that has a valid approval in accordance with sections 5 to 9. (Amended 14 of 2006 s. 10)

(2) A container shall be regarded as having a valid safety approval plate fixed to it if-

(a) the safety approval plate is marked and fixed to the container in accordance with Schedule 2; 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 a procedure prescribed or approved under section 12 and before it is again used. (Amended 14 of 2006 s. 10)

Section:	10A	Removal of safety approval plate	L.N. 221 of 2006	10/11/2006
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(1) An owner of a container or, where section 4(2) applies, the bailee or lessee of the container, shall remove the safety approval plate fixed to the container if—

(a) the container has been modified in a manner—

(i) which would make it unable to meet the structural safety requirements and test standards specified in Schedule 1; and

(ii) which would render the information on the safety approval plate incorrect or inaccurate in a material respect;

(b) the container is removed from service and it—

(i) is not properly maintained within the meaning of section 11; or

(ii) is not examined in accordance with a procedure prescribed or approved under section 12; or

(c) the approval issued in respect of the container ceases to be valid under section 9(2) or (3).

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(3) It shall be a defence to any proceedings under subsection (2) for contravention of subsection (1) 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 compliance with subsection (1);

(b) 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 compliance with subsection (1);

(c) in the case of a lessee, 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 compliance with subsection (1).

(Added 14 of 2006 s. 11)

Section:	11	Maintenance of containers	L.N. 216 of 2006	10/11/2006
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### Maintenance and examination of containers

- (1) A container is properly maintained if it is maintained in a safe condition.
- (2) For the purposes of subsection (1) a container shall be deemed not be in a safe condition unless it is in an efficient state, in efficient working order and in good repair.

Section:	12	Examination of containers	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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- (1) For the purposes of this Ordinance, the Director may- (Amended 14 of 2006 s. 12)
- (a) in relation to any container or class of containers that is approved under section 5 or 6, by order in the Gazette, prescribe; or
- (b) in relation to any container or class of containers that is issued with an approval referred to in section 5, 6 or 7, by a notice in writing to the applicant in an application under section 13, approve, (Amended 14 of 2006 s. 12)

a procedure for the examination of the container or containers, and in this Ordinance (except in subsection (4)) reference to an examination procedure, or to an approved examination procedure, is a reference to a procedure so prescribed or approved.

(2) An approved examination procedure shall provide for examination of the container at intervals or for its continuous examination and shall specify-

- (a) the procedures comprising the examination;
- (b) in the case of a scheme for periodic examination, the maximum intervals between examinations; and
- (c) any circumstances in which the container shall be examined.

(3) There shall be clearly marked on every container, either on or as close as practicable to the safety approval plate, all matters which the examination procedure in relation to the container requires to be marked.

(4) Where-

- (a) the owner, bailee or lessee is-
- (i) resident in; or
- (ii) established or incorporated in, a contracting party other than Hong Kong; and
- (b) the government of that contracting party or a person authorized by the government to act on its behalf has prescribed or approved an examination procedure in relation to a container for the purposes of the Convention,

an examination carried out in accordance with that procedure shall be deemed to be an examination carried out in accordance with a procedure prescribed or approved under subsection (1). (Replaced 14 of 2006 s. 12)

(4A) In subsection (4), "contracting party" (締約方) means-

- (a) a country the government of which has ratified, accepted, approved or acceded to the Convention; or
- (b) a place to which the Convention applies. (Added 14 of 2006 s. 12)

(5) In this section a reference to the examination of a container is a reference to its examination for the purpose of determining whether the container has any defect which could result in prejudice to the health or safety of any person.

Section:	13	Applications for approval of examination procedures	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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(1) The owner or, where section 4(2)(c) applies, the bailee or lessee of a container specified in subsection (1A) may in writing apply to the Director for approval under section 12(1)(b) of a proposed examination procedure in relation to the container. (Replaced 14 of 2006 s. 13)

(1A) An application made under subsection (1) in respect of a container (whether manufactured or used in or outside Hong Kong) may be made by-

- (a) an owner, bailee or lessee whose container-
- (i) is approved under section 5; or

- (ii) is manufactured in accordance with a design type approved under section 6;
- (b) an owner, bailee or lessee who is-
  - (i) resident in Hong Kong; or
  - (ii) established or incorporated in Hong Kong; or
- (c) an owner, bailee or lessee who is-
  - (i) resident in; or
  - (ii) established or incorporated in, a country or place the government of which has not made any arrangement for prescribing or approving an examination procedure in relation to containers for the purposes of the Convention. (Added 14 of 2006 s. 13)
- (2) An application under subsection (1) shall-
  - (a) contain or be accompanied by the information or documents specified by the Director by notice published in the Gazette; and
  - (b) be accompanied by the prescribed fee. (Replaced 14 of 2006 s. 13)
- (2A) A notice under subsection (2) is not subsidiary legislation. (Added 14 of 2006 s. 13)
- (3) On an application under this section the Director shall-
  - (a) if he considers that the examination procedure proposed in the application would be effective in determining whether the container has any defect which could result in prejudice to the health or safety of any person, approve the examination procedure; or
  - (b) refuse the application.

Section:	14	Containers which have no safety approval plate or which have an incorrectly completed plate	L.N. 216 of 2006	10/11/2006
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### **Inspection and control of containers**

(1) If a container is found to be without a safety approval plate fixed in accordance with section 10 the Director may, except where section 15 applies-

- (a) by notice served on the owner, lessee or bailee of the container, prohibit the use of the container; or
- (b) detain the container,

until such time as a safety approval plate has been fixed in accordance with the Convention or section 10 or permission is given under subsection (2) for the container to proceed to its destination for unloading.

(2) Where the Director-

- (a) is satisfied after a visual inspection by an inspector that a container which has been prohibited from use or detained under subsection (1) does not appear to be an unsafe container; and
- (b) is satisfied on the basis of evidence produced to an inspector that-
  - (i) the container has been approved in accordance with the Convention or this Ordinance; or
  - (ii) the container complies with the structural safety requirements and test standards specified in Schedule 1,

the Director may permit the container to proceed to its destination for unloading.

(3) It shall be a condition of any permission given under subsection (2) that-

- (a) the container shall be taken directly to its unloading destination and shall be unloaded as soon as is practicable; and
- (b) a safety approval plate shall then be fixed to the container in accordance with the Convention or this Ordinance as soon as is practicable, and the container shall not be reloaded until this has been done.

Section:	15	Containers displaying an examination date that has passed	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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(1) If a container is found to be displaying an examination date that has passed, the Director may-

- (a) by notice served on the owner, lessee or bailee of the container, prohibit the use of the container; or
- (b) detain the container,

until such time as the container has been examined and updated in accordance with a procedure prescribed or approved under section 12 or permission is given under subsection (2) for the container to proceed to its destination for unloading. (Amended 14 of 2006 s. 14)

(2) Where the Director is satisfied after a visual inspection by an inspector that a container which has been prohibited from use or detained under subsection (1) does not appear to be an unsafe container, he may permit the container to proceed to its destination for unloading.

(3) It shall be a condition of any permission given under subsection (2) that-

- (a) the container shall be taken directly to its unloading destination and shall be unloaded as soon as is practicable; and
- (b) the container shall then be examined and updated as soon as is practicable, and shall not be reloaded until this has been done.

(4) In this section-

- (a) "examination date" (檢驗日期) means, in relation to a container which is required under its approved examination procedure to undergo periodic examination, the date required under section 12 to be displayed on the container as being the date before which the container shall next be thoroughly examined;
- (b) reference to a container being examined is a reference to the examination requirements in section 12 being met in respect of the container;
- (c) reference to a container being updated is a reference to there being displayed on the container an examination date that has not passed.

Section:	16	Unsafe containers	L.N. 216 of 2006	10/11/2006
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(1) If a container is found to be unsafe the Director may-

- (a) by notice served on the owner, lessee or bailee of the container, prohibit the use of the container; or
- (b) detain the container,

until such time as any defect found in the container has been remedied or permission is given under subsection (3) for the container to be moved.

(2) The Director may in addition by notice served on the owner, lessee or bailee of the container require that person to take such steps as may be specified in the notice to remedy any defect found in the container or otherwise to remove any unnecessary risk to personal safety.

(3) Where the Director is satisfied after a visual inspection by an inspector that a container which has been prohibited from use or detained under subsection (1) can be safely moved, either to a place where it can be restored to a safe condition or to its destination, the Director may permit such movement on such conditions as he may specify.

(4) It shall be a condition of any permission given under subsection (3) that-

- (a) the container shall be repaired as soon as is practicable after its permitted movement; and
- (b) once unloaded, the container shall not be reloaded until any defect found in the container has been remedied.

Section:	17	Provisions supplementary to sections 14 to 16	L.N. 216 of 2006	10/11/2006
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(1) The Director may request any person who appears to be in charge of or to have custody of a container to which section 14, 15 or 16 applies, or whom he reasonably believes to have entered into any contract in relation to the use, movement or storage of such a container, to provide to the Director such information as is within his possession or to which he has access as the Director believes will or may tend to indicate the identity of the owner, lessee or bailee of the container.

(2) Where, by virtue of any failure on the part of the owner, lessee or bailee of a container to comply with the requirements imposed by section 4, there are grounds upon which the Director may take action under section 14, 15 or 16 to detain the container, then that owner, lessee or bailee shall be liable to pay to the Director the reasonable costs of any such action so taken by the Director, and those costs shall be recoverable summarily as a civil debt.

(3) In sections 14 to 16-

- (a) "unsafe" (不安全) means, in relation to a container, having a defect which could prejudice the health or safety of any person; and
- (b) reference to a container being safely moved shall be construed as reference to a container being moved in a manner so as not to prejudice the health or safety of any person.

Section:	17A	Offences under sections 14 to 17	L.N. 221 of 2006	10/11/2006
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(1) A person on whom a notice has been served under section 14(1), 15(1) or 16(1) in respect of a container shall not use the container, or permit it to be used, in contravention of any term of the notice.

(2) A person to whom permission is given by the Director under section 14(2), 15(2) or 16(3) in respect of a container shall not do, or permit to be done, anything in relation to the container which is contrary to any condition of that permission.

(3) No person shall, without the permission of the Director, remove any container which has been detained under section 14(1), 15(1) or 16(1).

(4) A person on whom a notice has been served under section 16(2) shall comply with the requirements specified in the notice.

(5) A person who without reasonable excuse contravenes subsection (1), (2), (3) or (4) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(6) A person who without reasonable excuse fails to comply with a request made by the Director under section 17(1) commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 3 months.

(Added 14 of 2006 s. 15)

Section:	18	Appointment of inspectors	L.N. 216 of 2006	10/11/2006
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The Director may by notice in the Gazette appoint such persons as he thinks fit to be inspectors for the purposes of this Ordinance.

Section:	19	Powers of Director and inspectors	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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- (1) The Director or any inspector appointed under section 18 may, for the purpose of-
- ascertaining whether any container fails to comply with any requirement specified under this Ordinance in relation to it;
  - detecting whether any offence is being, has been or is about to be committed under this Ordinance;
  - identifying any unsafe containers in use in Hong Kong and ensuring as far as is practicable that, except as otherwise provided under this Ordinance, such containers do not continue to be used;
  - monitoring the receipt and processing by authorized persons of applications for approval under sections 5 and 6 and the testing of, and granting of approvals in relation to, containers under those sections,

exercise any of the powers specified in subsection (2) where the exercise of that power is necessary or appropriate in respect of the particular purpose.

- (2) The powers specified for the purposes of subsection (1) are the powers-
- at any reasonable time, to enter any premises or board any vessel within the waters of Hong Kong;
  - to take with him such persons and any equipment or material as may be necessary to assist him;
  - to inspect any container;
  - to make any examination or investigation, and for that purpose take any measurements or photographs and make any recordings; and
  - to require the production of any document required to be kept in pursuance of this Ordinance and to inspect and copy it or any entry in it.

(3) No premises or vessel which is used solely for dwelling purposes shall be entered or boarded under subsection (1) except by virtue of a warrant issued by a magistrate, where the magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Ordinance has been, is being or is about to be committed in the premises or vessel or that there is in the premises or vessel anything likely to be or to contain evidence of such an offence.

- (4) An inspector who enters premises or boards a vessel shall-
- if so required, produce evidence of his identity and of his appointment by the Director under section 18; and
  - if a warrant has been issued under subsection (3), produce that warrant to any person who appears to be in charge of the premises or vessel.

(5) The Director or any inspector appointed under section 18 shall not exercise the power conferred by

subsection (2)(c) to inspect the inside of a sealed container except by virtue of a warrant issued by a magistrate, where the magistrate is satisfied by information on oath that there is reasonable ground for suspecting that the inside of the container has not been properly maintained within the meaning of section 11 or is in a condition such as may render the container unsafe or may constitute evidence of the commission of an offence under this Ordinance. (Amended 14 of 2006 s. 16)

Section:	20	(Repealed 14 of 2006 s. 17)	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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### Offences and penalties

(Repealed 14 of 2006 s. 17)

Section:	21	(Repealed 14 of 2006 s. 18)	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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Section:	22	Obstruction	L.N. 216 of 2006	10/11/2006
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Any person who-

- (a) wilfully obstructs the Director or an inspector in the exercise of any power conferred on him by sections 14 to 16 or 19;
  - (b) without reasonable excuse fails to comply with any requirement imposed by the Director or an inspector under section 19;
  - (c) without reasonable excuse fails to produce any document which is required under section 19,
- commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.

Section:	23	Director's review of decisions of authorized person	L.N. 216 of 2006	10/11/2006
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### Reviews and appeals

(1) A person who is aggrieved by a decision made by an authorized person in respect of him under section 5, 6 or 9(2) may in writing apply in accordance with this section to have the decision reviewed by the Director by lodging with the Director a notice requesting such review.

(2) A notice requesting a review by the Director must be lodged by the person within 28 days after his receipt of notice of the decision.

(3) Where a notice of review is lodged in respect of a decision of an authorized person under section 9 to the effect that an approval is no longer valid, the decision specified in the notice of review shall be suspended in its operation as from the day on which the notice is lodged until the review is disposed of, withdrawn or abandoned, unless the advice or notice of the decision given to any person bound by the decision is accompanied by a statement in writing to the effect that, in the opinion of the Director, such suspension would be contrary to the public interest.

(4) In any such review the Director may confirm, vary or reverse the decision under review or substitute for that decision such other decision as he thinks fit that could have been made by the authorized person.

Section:	24	Appeals	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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(1) A person aggrieved by a decision made in respect of him by the Director-

- (a) (Repealed 14 of 2006 s. 19)
- (b) under section 9, that an approval shall no longer be valid;
- (c) under section 12 or 13, in an application for approval of an examination procedure;
- (d) under sections 14 to 16, in relation to control of the use of a container;
- (e) under section 23, in relation to an application for the review of a decision of an authorized person;
- (f) under section 25, in relation to any request for exemption under that section,

may appeal to the Administrative Appeals Board against that decision, and Part III of the Administrative Appeals Board Ordinance (Cap 442) shall have effect for the purposes of any such appeal.

(2) Where in accordance with section 9 of the Administrative Appeals Board Ordinance (Cap 442) a notice of appeal is lodged in respect of a decision of the Director-

- (a) under section 9, that an approval no longer be valid;
- (b) under sections 14 to 16, prohibiting the use of or detaining a container,

the decision that is appealed against shall be suspended in its operation as from the day on which the notice of appeal is lodged until the appeal is disposed of, withdrawn or abandoned, unless the advice or notice of the decision given to any person bound by the decision is accompanied by a statement in writing to the effect that, in the opinion of the Director, such suspension would be contrary to the public interest.

Section:	25	Exemptions	L.N. 216 of 2006	10/11/2006
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### Miscellaneous

(1) Subject to subsection (3) the Director may by certificate in writing exempt any container or class of containers, approved or not approved, or any person or class of persons to which this Ordinance applies from any requirement or prohibition imposed by this Ordinance.

(2) 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.

(3) The Director 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 he proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

he 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.

Section:	26	Service of notices	L.N. 216 of 2006	10/11/2006
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Any notice which may be or is to be served by the Director on any person under this Ordinance may be served on that person by post.

Section:	27	Regulations	L.N. 216 of 2006	10/11/2006
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(1) The Secretary may make regulations for the purpose of this Ordinance and for giving effect to any provision of the Convention applicable to Hong Kong.

(2) Regulations made under this section may-

- (a) make provision concerning applications for approval of a container or container design type under sections 5 and 6 and in that connection specify arrangements for the examination and testing of the container or prototype container;
- (b) make provision concerning any other application which may be made under this Ordinance;
- (c) specify the information to be contained in any document submitted to the Director under this Ordinance;
- (d) provide for the form and manner of issue of any declaration under section 9(2);
- (e) provide that the contravention of any particular regulation is an offence, and may prescribe penalties for any such offence of a fine at level 4 or 1 year's imprisonment or both such fine and such imprisonment;
- (f) provide for the issue and service of notice of any inspection or of any findings in respect of a matter specified in section 14, 15 or 16;
- (g) empower the Director to amend any Schedule to such regulations;
- (h) provide for proceedings for a review under section 23;
- (i) specify any fees payable under this Ordinance.

Section:	28	Amendment of Schedules	L.N. 216 of 2006	10/11/2006
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The Director may by order published in the Gazette amend any Schedule for the purpose of, and only for the purpose of, giving effect to any amendment to the Convention as applied to Hong Kong or any recommendation issued by the International Maritime Organization for the harmonized interpretation of the Convention.

Section:	29	(Omitted as spent)	L.N. 216 of 2006	10/11/2006
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Schedule:	1	STRUCTURAL SAFETY REQUIREMENTS AND TESTS	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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[sections 5, 6, 10A, 14 & 28]  
(Amended 14 of 2006 s. 21)

## Construction

(1) A container made from any suitable material which satisfactorily performs the following tests without sustaining any permanent deformation or abnormality which would render it incapable of being used for its designed purpose shall be considered safe.

(2) The dimensions, positioning and associated tolerances of corner fittings shall be checked having regard to the lifting and securing systems in which they will function.

(3) (Repealed 14 of 2006 s. 21)

## Test loads and test procedures

Where appropriate to the design of the container, the following test loads and test procedures shall be applied to all kinds of containers under test-

### 1. LIFTING

The container, having the prescribed INTERNAL LOADING, shall be lifted in such a way that no significant acceleration forces are applied. After lifting, the container shall be suspended or supported for 5 minutes and then lowered to the ground.

#### (A) LIFTING FROM CORNER FITTINGS

TEST LOADINGS AND APPLIED FORCES	TEST PROCEDURES
<p><b>Internal loading:</b></p> <p>1. A uniformly distributed load such that the combined weight of a container and test load is equal to 2 R. (Amended 14 of 2006 s. 21)</p> <p>2. In the case of a tank-container, where the test weight of the internal load plus the tare weight is less than 2 R, a supplementary load uniformly distributed over the length of the tank is to be applied to the container, such that the combined weight of the internal load, tare weight and supplementary load is equal to 2 R. (Amended 14 of 2006 s. 21)</p>	<p>(i) Lifting from top corner fittings-</p> <p>Containers greater than 3000 mm (10 ft) (nominal) in length shall have lifting forces applied vertically at all 4 top corner fittings.</p> <p>Containers of 3000 mm (10 ft) (nominal) in length and less shall have lifting forces applied at all 4 top corner fittings, in such a way that the angle between each fitting device and the vertical shall be 30°.</p>
<p><b>Externally applied forces:</b></p> <p>Such as to lift the combined weight of 2 R in the manner prescribed (under the heading TEST PROCEDURES).</p>	<p>(ii) Lifting from bottom corner fittings-</p> <p>Containers shall have lifting forces applied in such a manner that the lifting devices bear on the bottom</p>

(Amended 14 of 2006 s. 21)

corner fittings only. The lifting forces shall be applied at angles to the horizontal of-

30° for containers of length 12000 mm (40 ft) (nominal) or greater;

37° for containers of length 9000 mm (30 ft) (nominal) and up to but not including 12000 mm (40 ft) (nominal);

45° for containers of length 6000 mm (20 ft) (nominal) and up to but not including 9000 mm (30 ft) (nominal);

60° for containers of less than 6000 mm (20 ft) (nominal).

## (B) LIFTING BY ANY OTHER ADDITIONAL METHODS

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### TEST LOADINGS AND APPLIED FORCES

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### TEST PROCEDURES

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#### **Internal loading:**

1. A uniformly distributed load such that the combined weight of a container and test load is equal to 1.25 R. (Amended 14 of 2006 s. 21)

2. In the case of a tank-container, where the test weight of the internal load plus the tare weight is less than 1.25 R, a supplementary load uniformly distributed over the length of the tank is to be applied to the container, such that the combined weight of the internal load, tare weight and supplementary load is equal to 1.25 R. (Amended 14 of 2006 s. 21)

#### **Externally applied forces:**

Such as to lift the combined weight of 1.25 R in the manner prescribed (under the heading TEST PROCEDURES). (Amended 14 of 2006 s. 21)

#### (i) Lifting from fork lift pockets-

The container shall be placed on bars which are in the same horizontal plane, one bar centred within each fork lift pocket which is used for lifting the loaded container. The bars shall be of the same width as the forks intended to be used in the handling, and shall project into the fork pocket 75% of the length of the fork pocket.

#### (ii) Lifting from grappler arm positions-

The container shall be placed on pads in the same horizontal plane, one under each grappler arm position. These pads shall be of the same sizes as the lifting area of the grappler arms intended to be used.

#### (iii) Other methods-

Where containers are designed to be lifted in the loaded condition by any method not mentioned in (A) or (B)(i) and (ii) they shall also be tested with the INTERNAL LOADING AND EXTERNALLY APPLIED FORCES representative of the acceleration conditions appropriate to that method.

## 2. STACKING

1. For conditions of transport where the maximum vertical acceleration forces vary significantly from 1.8 g and when the container is reliably and effectively limited to such conditions of transport, the stacking load may be varied by the appropriate ratio of acceleration forces.

2. On successful completion of this test the container may be rated for the allowable superimposed static stacking weight which should be indicated on the safety approval plate, against the heading "allowable stacking weight for 1.8

g (kilogrammes and pounds)".

TEST LOADINGS AND APPLIED FORCES	TEST PROCEDURES
<p><b>Internal loading:</b></p> <p>1. A uniformly distributed load such that the combined weight of a container and test load is equal to 1.8 R. (Amended 14 of 2006 s. 21)</p> <p>2. In the case of a tank-container, it may be tested in tare condition. (Amended 14 of 2006 s. 21)</p> <p><b>Externally applied forces:</b></p> <p>Such as to subject each of the 4 top corner fittings to a vertical downward force equal to <math>1/4 \times 1.8 \times</math> the allowable superimposed static stacking weight.</p>	<p>The container, having the prescribed INTERNAL LOADING, shall be placed on 4 level pads which are in turn supported on a rigid horizontal surface, one under each bottom corner fitting or equivalent corner structure. The pads shall be centralized under the fittings and shall be of approximately the same plan dimensions as the fittings.</p> <p>Each EXTERNALLY APPLIED FORCE shall be applied to each of the corner fittings through a corresponding test corner fitting or through a pad of the same plan dimensions. The test corner fittings or pad shall be offset with respect to the top corner fitting of the container by 25 mm (1 in) laterally and 38 mm (1 1/2 in) longitudinally.</p>
<p>3. CONCENTRATED LOADS</p>	

TEST LOADINGS AND APPLIED FORCES	TEST PROCEDURES
<p>(a) ON ROOF</p>	
<p><b>Internal loading:</b></p> <p>None.</p> <p><b>Externally applied forces:</b></p> <p>A concentrated load of 300 kg (660 lb) uniformly distributed over an area of 600 mm <math>\times</math> 300 mm (24 in <math>\times</math> 12 in).</p>	<p>The EXTERNALLY APPLIED FORCES shall be applied vertically downward to the outer surface of the weakest area of the roof of the container.</p>
<p>(b) ON FLOOR</p>	
<p><b>Internal loading:</b></p> <p>Two concentrated loads each of 2730 kg (6000 lb) and each applied to the container floor through a contact area of 142 cm<sup>2</sup> (22 in<sup>2</sup>).</p> <p><b>Externally applied forces:</b></p> <p>None.</p>	<p>The test should be made with the container resting on 4 level supports under its 4 bottom corners in such a manner that the base structure of the container is free to deflect.</p> <p>A testing device loaded to a weight of 5460 kg (12000 lb) (that is 2730 kg (6000 lb) on each of 2 surfaces) having, when loaded, a total contact area of 284 cm<sup>2</sup> (44 in<sup>2</sup>) (that is 142 cm<sup>2</sup> (22 in<sup>2</sup>) on each surface), the surface width being 180 mm (7 in) spaced 760 mm (30 in) apart, centre to centre, should be manoeuvred over the entire floor area of the container.</p>

#### 4. TRANSVERSE RACKING

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##### TEST LOADINGS AND APPLIED FORCES

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##### TEST PROCEDURES

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**Internal loading:**

None.

The container in tare condition shall be placed on 4 level supports, one under each bottom corner, and shall be restrained against lateral and vertical movement by means of anchor devices so arranged that the lateral restraint is provided only at the bottom corners diagonally opposite to those at which the forces are applied.

**Externally applied forces:**

Such as to rack the end structures of the containers sideways. The forces shall be equal to those for which the container was designed.

The EXTERNALLY APPLIED FORCES shall be applied either separately or simultaneously to each of the top corner fittings on one side of the container in lines parallel both to the base and to the planes of the ends of the container. The forces shall be applied first towards and then away from the top corner fittings. In the case of containers in which each end is symmetrical about its own vertical centreline, one side only need be tested, but both sides of containers with asymmetric ends shall be tested.

#### 5. LONGITUDINAL RESTRAINT (STATIC TEST)

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##### TEST LOADINGS AND APPLIED FORCES

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##### TEST PROCEDURES

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**Internal loading:**

1. A uniformly distributed load such that the combined weight of a container and test load is equal to R. (Amended 14 of 2006 s. 21)

2. In the case of a tank-container, where the test weight of the internal load plus the tare weight is less than R, a supplementary load uniformly distributed over the length of the tank is to be applied to the container, such that the combined weight of the internal load, tare weight and supplementary load is equal to R. (Amended 14 of 2006 s. 21)

The container having the prescribed INTERNAL LOADING shall be restrained longitudinally by is equal to the maximum securing the 2 bottom corner fittings or equivalent corner structures at one end to suitable anchor points. (Amended 14 of 2006 s. 21)

**Externally applied forces:**

Such as to subject each side of the container to longitudinal compressive and tensile forces of magnitude R, that is, a combined force of 2 R on the base of the container as a whole.

The EXTERNALLY APPLIED FORCES shall be applied first towards and then away from the anchor points. Each side of the container shall be tested.

#### 6. END WALLS

The end walls should be capable of withstanding a load of not less than 0.4 times the maximum permissible payload. If, however, the end walls are designed to withstand a load of less or greater than 0.4 times the maximum permissible payload, such a strength factor shall be indicated on the safety approval plate in accordance with Schedule 2.

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**TEST LOADINGS AND APPLIED FORCES**

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**TEST PROCEDURES**

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**Internal loading:**

Such as to subject the inside of an end wall to a uniformly distributed load of 0.4 P or such other load for which the container may be designed.

The prescribed INTERNAL LOADING shall be applied as follows-

Both ends of a container shall be tested except where the ends are identical only one end need be tested. The end walls of containers which do not have open sides or side doors may be tested separately or simultaneously.

The end walls of containers which do have open sides or side doors should be tested separately. When the ends are tested separately the reactions to the forces applied to the end wall shall be confined to the base structure of the container.

**Externally applied forces:**

None.

### 7. SIDE WALLS

The side walls should be capable of withstanding a load of not less than 0.6 times the maximum permissible payload. If, however, the side walls are designed to withstand a load of less or greater than 0.6 times the maximum permissible payload, such a strength factor should be indicated on the safety approval plate in accordance with Schedule 2.

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**TEST LOADINGS AND APPLIED FORCES**

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**TEST PROCEDURES**

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**Internal loading:**

Such as to subject the inside of a side wall to a uniformly distributed load of 0.6 P or such other load for which the container may be designed.

The prescribed INTERNAL LOADING shall be applied as follows-

Both sides of a container shall be tested except where the sides are identical only one side need be tested. Side walls shall be tested separately and the reactions to the internal loading shall be confined to the corner fittings or equivalent corner structures. Open topped containers shall be tested in the condition in which they are designed to be operated, for example, with removable top members in position.

[cf. CSC Annex II]

**Externally applied forces:**

None.

Schedule:	2	SAFETY APPROVAL PLATE	L.N. 216 of 2006; L.N. 221 of 2006	10/11/2006
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[sections 2 & 10 & Schedule 1]

1. The safety approval plate required by section 10 of this Ordinance shall be permanently fixed to the container in a position such that it is-

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

[cf. CSC Annex I Reg. 1 para. 1]

2. The safety approval plate shall-

- (a) be in the form shown in Figure 1;

- (b) consist of a permanent, non-corroding, fireproof, rectangular plate measuring not less than 200 mm by 100 mm;
- (c) be marked with-
  - (i) the legend "CSC Safety Approval" in letters of at least 8 mm in height; and
  - (ii) the other legends and information prescribed by paragraph (d) and by Figure 1 in letters of at least 5 mm in height,
 and such markings shall be permanent, clear and legible and in at least the English or French language, but nothing in this paragraph shall prevent any markings for the purposes 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 or place of approval and approval reference; (Amended 14 of 2006 s. 22)
  - (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 number allotted by the Director or the owner's identification number, or the number allotted by the government or organization which has granted the approval;
  - (iv) line 4-the maximum operating gross weight in kilogrammes and pounds;
  - (v) line 5-the allowable stacking weight for 1.8 g in kilogrammes and pounds (that is to say, the designed maximum superimposed static stacking weight);
  - (vi) line 6-the racking test load value in kilogrammes and pounds;
  - (vii) line 7-the end wall strength value as a 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 procedure 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 purposes of sub-subparagraphs (A) and (B) if they are not required to contain other information.

[cf. CSC Annex I, Appendix]

FIGURE 1

CSC SAFETY APPROVAL

1 .....	
2 .....	DATE MANUFACTURED .....
3 .....	IDENTIFICATION NO. ....
4 .....	MAXIMUM GROSS WEIGHT ..... kg .....1b
5 .....	ALLOWABLE STACKING WEIGHT FOR 1.8g ..... kg ..... 1b
6 .....	RACKING TEST LOAD VALUE ..... kg ..... 1b
7 .....	
8 .....	
9 .....	

[cf. CSC Annex I, Appendix]