

**Merchant Shipping (Safe Containers) Regulation 2007**

**STATUTORY INSTRUMENT**

**No. 11 of 2007**

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Being a Regulation,

MADE by the Head of State, acting with and in accordance with, the advice of the National Executive Council under the Merchant Shipping Act. (Chapter 242).

1 Interpretation.

In this Regulation the following definitions apply:

"Act" means the Merchant Shipping Act (Chapter 242);

"Adjacent Country" is a neighbouring country within the Pacific Region where the EEZ of the neighbouring country meets that of Papua New Guinea;

"approved" means approved by the Authority,

"Authority" means the National Maritime Safety Authority established by the National Maritime Safety Authority Act 2003;

"container" means an article of transport equipment:

- (a) of a permanent character and strong enough to be suitable for repeated use;
- (b) specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading;
- (c) having fittings to facilitate ready handling by equipment such as forklifts and cranes;
- (d) designed to be secured and/or readily handled, having corner fittings for these purposes;

and includes both ISO and non-ISO containers and may include portable tanks where these are fitted with lifting points. The term "container" includes neither vehicles nor packaging, however, containers when carried on chassis are included;

"corner fittings" means an arrangement of apertures and faces at the top and/or bottom of a container for the purposes of handling, stacking and/or securing;

"container owner" means the person or organisation who owns, leases, hires, or otherwise, and has operational management control over the container;

"Convention" and "CSC" means the International Convention for Safe Containers, 1971 as amended;

"CSC Plate" means the plate attached to an ISO shipping container confirming that it was built and is maintained to the standards required by the International Convention for Safe Containers, 1971 as amended;

"owner", in relation to a ship means the registered owner of the ship, or in the absence of a registered owner, the person who is for the time being responsible for the management of the ship;

"Papua New Guinea ship" means any ship registered in Papua New Guinea or entitled to Papua New Guinea registration operated from a base within Papua New Guinea;

"Papua New Guinea waters" means the territorial waters of Papua New Guinea, including all rivers and inland waters;

"Recognised Organisation" means an organisation that has entered into a memorandum of agreement with the Authority in compliance with the International Maritime Organization Assembly Resolution A.739(18) and its Annexes entitled "Guidelines for the Authorisation of Organisations Acting on Behalf of the Administration", and whereby that organisation may verify that the design, construction and testing of a container is in accordance with the requirements of the Convention;

"ship" means any ship, barge, lighter, or other cargo carrying system used for transportation on the water;

"shipper" means any person by whom or on whose behalf the goods are delivered to the carrier for transport;

"stevedore" means any person whom, not being the ship's crew, is responsible for the load and discharge operation on a ship in port;

"Warship" means any ship of the defence force or armed forces, including fisheries patrol vessels.

## 2. Application.

(1) This Regulation applies to:

- (a) all Papua New Guinea ships regardless of type or size, carrying containers;
- (b) foreign ships carrying containers in any port in Papua New Guinea or in Papua New Guinea waters;
- (c) Government-owned ships carrying containers during a commercial cargo voyage;
- (d) all persons that handle, load, stow, lease, manufacture any container or provide for the carriage of cargo in a container; but does not apply to an exempt ship.

(2) In this Section, "exempt ship" includes a warship of the Defence Force of Papua New Guinea or of other country.

## 3. Approval of containers.

(1) Application for approval of a container shall be made by the manufacturer to the Authority.

(2) The Authority may, in writing, delegate the approval of containers to a Recognised Organisation.

(3) A Recognised Organisation may, in accordance with this Regulation, approve a container that complies with the requirements of Annex II of the Convention.

4. Design type approval.

(1) An application for design type approval shall include:

(a) a design specification, drawings and such other data related to the design or manufacture as may be required by the Recognised Organisation; and

(b) details of the identification symbols that will be assigned by the manufacturer to the type series to which the application relates.

(2) For design type approval, the manufacturer shall:

(a) institute and maintain a certificated ISO 9001, or equivalent national standard, quality system for the manufacture of the prototype and any subsequent type series containers;

(b) supply, to the Recognised Organisation, such prototype as the Recognised Organisation may wish to examine;

(c) upon request, ensure that the Recognised Organisation is granted all necessary facilities for inspecting the manufacturing process and witnessing tests of the prototype;

(d) under the supervision of the Recognised Organisation, subject a prototype to the tests specified in Annex II of the Convention;

(e) notify the Recognised Organisation of:

(i) any intention to commence the manufacture of any type series containers; and

(ii) the identification number to be assigned to each container manufactured;

(f) for every type series container, keep a record that shall:

(i) contain the manufacturer's identification number of the container, the date of delivery and the name and address of the customer to whom the container is delivered;

(ii) be retained for a period of not less than 15 years from the date of delivery of that container; and

(iii) be made available to the Authority and the Recognised Organisation that approved the design type;

(g) notify the Recognised Organisation of any change in the design specification;

(h) subject additional type series containers to tests as and when the Recognised Organisation may require; and

(i) not affix a safety approval plate to any container, to which the design type relates, until the Recognised Organisation approves the design and manufacture in writing.

5. Individual container approval.

(1) An application for approval of an individual container shall include:

(a) a design specification, drawings and such other data related to the design or manufacture as may be required by the Authority or Recognised Organisation; and

(b) details of the identification symbols that the manufacturer will assign to the container.

(2) The manufacturer shall:

(a) notify the Recognised Organisation of an intention to commence manufacture of the container;

(b) upon request, ensure that the Recognised Organisation is granted all necessary facilities for inspecting the manufacturing process and witnessing tests of the container;

(c) manufacture the container under inspection and to the satisfaction of the Recognised Organisation; and

(d) not affix a safety approval plate to the container until the Recognised Organisation has approved the design and manufacture in writing.

6. Safety approval plate.

(1) Subject to Section 4 and 5, the manufacturer shall affix a safety approval plate to:

(a) every container approved in accordance with Section 4 and 5;

(b) every types series container manufactured in accordance with an approved design type.

(2) The safety approval plate shall comply with the requirements of Schedule 1 and be permanently affixed to the container:

(a) in a readily visible place; and

(b) adjacent to any other plate relating to an approval issued for official purposes; and

(c) where it will not be readily damaged.

7. Responsibility for maintenance and examination.

The owner of an approved container shall ensure that:

(a) the container is maintained in a safe condition; and

(b) the container is;

(i) examined periodically in accordance with the requirements of Section 8; or

(ii) subject to a continuous examination programme in accordance with the requirements of the Authority, for the purposes of determining whether the container has any defect that could place any person in danger; and

(c) examinations undertaken in Papua New Guinea for the purposes of this Regulation are carried out by an inspector authorised by the Authority.

8. Periodic examination requirements.

An approved container shall be examined in accordance with Schedule 2:

(a) for the first time, within 5 years of the date of manufacture;

(b) after the repair of any defect in the container that could have placed any person in danger and before the container is loaded on to a ship following that repair;

(c) after any modification of the container and before the container is loaded on to a ship following that modification; and

(d) subject to paragraph (a), not less than once every 30 months.

9. Marking of a container subject to periodic examinations.

(1) The owner of an approved container subject to periodic examinations shall ensure that the date (being the month and year) by which the container—

(a) shall undergo its initial examination under Section 8, is clearly marked on the container's safety approval plate;

(b) is to be next re-examined, is clearly marked on:

(i) the safety approval plate; or

(ii) on the container as near as practicable to the safety approval plate.

(2) Examination dates shall be permanently and legibly marked in Arabic numerals or in words, in English, by:

(a) stamping, embossing or engraving; or

(b) applying a decal, which complies with the colour code indicated in the following Table; or

(c) another method approved by the Authority.

TABLE

Colour	Year				
Brown	1992	1998	2004	2010	2016
Blue	1993	1999	2005	2011	2017
Yellow	1994	2000	2006	2012	2018

Red 1995 2001 2007 2013 etc.

Black 1996 2002 2008 2014

Green 1997 2003 2009 2015

(3) The owner of a container shall not allow a re-examination date to be marked on a container unless an examination report has been issued in respect of the container in accordance with Section 10.

10. Examination report.

(1) If, following an examination in accordance with Section 8, the inspector is satisfied that the container has no defect that could place any person in danger and is fit to remain in service, he shall make and sign a written report:

(a) identifying the container;

(b) stating—

(i) the date of the examination; and

(ii) that in his or her opinion, the container has no defect that could place any person in danger and is fit to remain in service.

(2) The inspector's report shall be forwarded to the owner who shall retain the report, in legible form, until receipt of a report of a subsequent examination of that container.

(3) The owner shall make the inspector's report available to the Authority on request.

11. Carriage of containers by sea.

(1) Except as provided by sub-section (2) of this Section, all containers used to carry cargo on an international voyage where the container is to be loaded, handled or discharged in Papua New Guinea waters or in a Papua New Guinea port:

(a) shall be fully compliant with the International Convention for Safe Containers and shall display a current CSC plate; and

(b) shall be inspected before loading, handling or discharge to ensure that it carries a valid CSC plate. For the purposes of this requirement, the Authority may delegate, in writing, the physical checking of these plates to another agency, including the stevedore, port authority or a classification society, provided that the Authority is satisfied that the checking of containers is actually being conducted as required by this Section.

(2) Containers carrying cargo on domestic voyages or voyages between adjacent countries in the Pacific Region are not required to have a CSC plate; but

(a) (i) the Authority shall approve the design and construction of any container intended to be used in that trade for the first time; and

(ii) the Authority shall, prior to initial use, require the container to be thoroughly inspected and certified; and

(iii) the Authority shall require the container to be thoroughly inspected and re-certified at a time period that does not exceed 12 months from the date of any previous inspection; and

(iv) the Authority shall impose a weight limit on the cargo able to be carried in such a container; and

(v) the Certification details and maximum weight limit shall be clearly marked on each container; and

(b) for the purpose of sub-section 2 (a), the Authority shall establish criteria to be adopted for determining the process and standards required for certification and inspection, including the time period, of such containers.

(3) (a) No person shall:

(i) load cargo into any container; or

(ii) load, handle or discharge any container; or

(iii) permit any container to be stuffed, loaded, handled or discharged;

unless such container has been certified and inspected in accordance with sub-sections (1) and (2) of this Section.

(b) no container of any sort shall be used to transport cargo by sea unless it is of sufficient strength and of adequate design as to withstand the normal hazards of transport by sea and of handling in a port environment. For the purpose of this provision, the shipper and/or party who loaded the cargo into the container shall have the burden of establishing the sufficiency and adequacy of any container.

(4) (a) cargo packed in any container shall be packed and secured within the container so as to prevent damage or hazard to the ship and to persons involved in the handling and carriage of the container;

(b) in particular, the container shall be loaded so that:

(i) the total loaded weight of the container does not exceed either:

(a) the maximum gross weight that the container has been certified to carry; or

(b) the weight declared to the carrier at the time of shipment; and

(ii) the cargo within the container shall be distributed so that the centre of gravity of the container remains as close to the horizontal centroid between lifting or supporting points as is possible; and

(iii) the cargo is restrained and secured within the container so that it will not shift or damage the container or other cargo during the conditions that could normally be anticipated throughout the handling and carriage of the container.

(c) any person loading cargo into a container shall provide accurate details of the cargo so loaded to the owner, master or agent of the ship;

(d) no person shall load cargo, whether dangerous goods or not, into any container where the nature of that cargo is incompatible with other cargo in the container and where the incompatibility may cause risk to the ship or personnel.

(5) Any person being a Master, owner, agent, stevedore, container owner, shipper, or any other person who fails to comply with any part of the provisions of this Regulation commits an offence, and where no penalty is specified, shall be liable upon conviction to a fine not exceeding K25,000 and/or a term of imprisonment not exceeding 2 years.

#### SAFETY APPROVAL PLATE.

A safety approval plate shall:

(a) be a permanent, non-corroding, fireproof rectangular plate;

(b) measure not less than 200 mm by 100 mm;

(c) have the letters and words 'CSC SAFETY APPROVAL' stamped into, embossed on or indicated in any other permanent and legible way on the surface of the safety approval plate at a minimum letter height of 8 mm;

(d) have all other words and numbers stamped into, embossed on or indicated in any other permanent and legible way on the surface of the safety approval plate at a minimum height of 5 mm;

(e) conform to the model shown in the figure below and contain the following information in English on the line numbers indicated:

#### Schedule I

(i) line 1: the country of approval (designated by the letters "PNG" in the case of Papua New Guinea) and the name of the organisation issuing the approval, followed by the approval reference and the year in which the approval was issued;

(ii) line 2: the date of manufacture, being the month and year in which the container was manufactured;

(iii) line 3: the manufacturer's identification number or, in the case of a container for which the owner wishes to use an ISO alpha numeric identification code, a number appropriate to that code;

(iv) line 4: the maximum operating gross mass of the container expressed in both kilograms and pounds;



- (v) line 5: the allowable stacking load for 1.8g expressed in both kilograms and pounds;
- (vi) line 6: the transverse racking test force expressed in Newtons;
- (vii) line 7: the end wall strength value, if the end walls are designed to withstand a load of less or greater than 0.4 times the gravitational force by maximum permissible payload, namely 0.4Pg;
- (viii) line 8: the side wall strength value, if the side walls are designed to withstand a load of less or greater than 0.6 times the gravitational force by maximum permissible payload, namely 0.6Pg.
- (ix) line 9: the first maintenance examination date (month and year) for new containers, and subsequent maintenance examination dates (month and year) if plate is used for this purpose.

Figure: Safety Approval Plate

CSC SAFETY APPROVAL

1. [PNG / .]
2. DATE MANUFACTURED
3. IDENTIFICATION No
4. MAXIMUM OPERATION GROSS MASS kg lb.
5. ALLOWABLE STACKING LOAD FOR 1.8g .kg. Lb.
6. TRANSVERSE RACKING TEST FORCE Newtons
- 7.
- 8.
- 9.

Schedule II

Examinations of containers.

- (1) An examination of a container shall:
  - (a) consist of a detailed examination of the exterior and underside of the container and, if reasonably practicable, a similar examination of the interior;
  - (b) take into account:
    - (i) the particular characteristics of the type of container; and
    - (ii) the materials of construction;
  - (c) include a detailed visual inspection
    - (i) for all defects that could place any person in danger; and

- (ii) of all load-bearing components.
- (d) take place only when
  - (i) sufficient time is available;
  - (ii) the container is cleaned and prepared to the extent required by the inspector;
  - (iii) means of lifting and supporting the container are provided, to the extent required by the inspector, to ensure that the whole of the underside is accessible; and
  - (iv) safe means of access and egress, sufficient lighting and all other facilities necessary to allow the examination to be carried out safely and effectively, are provided.
- (2) An inspector undertaking an examination of a container may require the use of any:
  - (a) test, in accordance with Annex II of the Convention; or
  - (b) method of non-destructive testing, which the inspector considers appropriate.