



Container Trucking Act

CONTAINER TRUCKING REGULATION

B.C. Reg. 248/2014

Deposited and effective December 22, 2014
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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 248/2014 (O.C. 757/2014), deposited and effective December 22, 2014, is made under the *Container Trucking Act*, S.B.C. 2014, c. 28, ss. 2, 16, 17, 22 and 44.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

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Container Trucking Act

CONTAINER TRUCKING REGULATION

B.C. Reg. 248/2014

PART 1 – INTERPRETATION AND APPLICATION

Definitions

1 (1) In the Act and this regulation:

“**container**” means a metal box furnished or approved by an ocean carrier for the marine transportation of goods;

“**wait time remuneration**” means money owed by a licensee to an independent operator paid per trip for delays occurring when the independent operator is in a marine terminal.

(1.1) In this regulation:

“**Act**” means the *Container Trucking Act*;

“**benefit**” includes

(a) medical, disability, extended health, life, accidental death and dismemberment, dental or orthodontic insurance, and

(b) contributions to a pension plan or retirement fund,

but does not include

(c) wages or other remuneration calculated on the basis of work done or productivity, or

(d) the licensee’s or employer’s costs of doing business;

“**directly employed operator**” means an individual who performs container trucking services and is an employee, within the meaning of the *Employment Standards Act*, of a licensee;

“**facility**” means a location in the Lower Mainland where containers are stored, loaded, unloaded, trans-loaded, repaired, cleaned, maintained or prepared for shipping, but does not include a marine terminal;

“**fuel surcharge**” means money owed by a licensee to a trucker under an order made under section 22 (4) of the Act;

“**independent operator**” means a person, other than a licensee, who performs container trucking services and has an ownership interest or a leasehold interest in a vehicle that is designed to be self-propelled,

(a) to which a trailer, within the meaning of the *Motor Vehicle Act*, that is designed, used or intended for the carriage of containers is or may be attached, and

(b) by which a trailer described in paragraph (a) is or may be drawn;

“**indirectly employed operator**” means an individual, other than a directly employed operator, who performs container trucking services and is an

employee, within the meaning of the *Employment Standards Act*, of an independent operator;

“Lower Mainland” means the geographic area of British Columbia within the borders of the following municipalities, as they existed on December 1, 2014:

- (a) the City of Abbotsford;
- (b) the City of Burnaby;
- (c) the City of Chilliwack;
- (d) the City of Coquitlam;
- (e) the Corporation of Delta;
- (f) the City of Langley;
- (g) the Township of Langley;
- (h) the City of Maple Ridge;
- (i) the District of Mission;
- (j) the City of New Westminster;
- (k) the City of North Vancouver;
- (l) the District of North Vancouver;
- (m) the City of Pitt Meadows;
- (n) the City of Port Coquitlam;
- (o) the City of Port Moody;
- (p) the City of Richmond;
- (q) the City of Surrey;
- (r) the City of Vancouver;
- (s) the District of West Vancouver;
- (t) the City of White Rock;

“marine terminal” means one of the following:

- (a) Centerm;
- (b) Deltaport;
- (c) Fraser Surrey Docks;
- (d) Vanterm;
- (e) any other container terminal for which a trucking authorization or port access agreement is required by the Vancouver Fraser Port Authority;

“off-dock trip” means one movement of one or more containers by a trucker from one facility in the Lower Mainland to a different facility in the Lower Mainland, but does not include

- (a) an on-dock trip, or
- (b) a movement of a container from one location in a facility to a different location in the same facility;

CONTAINER TRUCKING REGULATIONPart 2 – Deemed Licences

“**on-dock trip**” means one movement of one or more containers by a trucker from

- (a) a marine terminal to a location in the Lower Mainland, or
- (b) a location in the Lower Mainland to a marine terminal;

“**pay period**” has the same meaning as in the *Employment Standards Act*;

“**remuneration**” means money owed to a trucker under an order made under section 22 (3) of the Act, but does not include wait time remuneration or fuel surcharges;

“**trip**”, in relation to container trucking services, means an off-dock trip or an on-dock trip.

- (2) A reference to distance in this regulation is to public road distance.

[am. B.C. Regs. 72/2015, s. 1; 144/2019, ss. 1 and 2.]

Prescribed trucking services and area

- 2 (1) The container trucking services prescribed for the purposes of section 16 (1) [*licence required*] of the Act are container trucking services that require access to a marine terminal, but do not include
- (a) container trucking services performed by a trucker on behalf of a licensee, using a truck with a truck tag issued by the commissioner, or
 - (b) transportation of a container to or from a location outside the Lower Mainland.
- (2) The area prescribed for the purposes of section 16 (1) of the Act is the Lower Mainland.

Publication required

- 3 The information required to be published under section 11 [*publication required*] of the Act must be posted on the commissioner’s website.

PART 2 – DEEMED LICENCES**Deemed licences**

- 4 (1) Subject to section 5 [*exception for long-haul authorizations*], authorizations issued by the Vancouver Fraser Port Authority under the *Canada Marine Act* to carry out container trucking services in effect on March 1, 2015 are conclusively deemed to be licences under the Act.
- (2) Truck tags issued by the Vancouver Fraser Port Authority to carry out container trucking services in effect on March 1, 2015 are conclusively deemed to be truck tags issued by the commissioner.

[en. B.C. Reg. 248/2014, App. 2.]

Exception for long-haul authorizations

- 5 This Part does not apply to authorizations issued by the Vancouver Fraser Port Authority to transport containers to or from a location outside the Lower Mainland.

PART 3 – INVITATION FOR LICENCE APPLICATIONS**Commissioner may invite applications**

- 6 (1) The commissioner may invite applications for a licence under section 16 (2) [*licence required*] of the Act if the commissioner is satisfied that it is desirable to increase the number of licensees.
- (2) If the commissioner decides to invite applications under subsection (1), the commissioner must determine
- (a) the period during which applications for a licence will be accepted,
 - (b) any mandatory requirements for a licence the commissioner considers appropriate, and
 - (c) any desirable criteria the commissioner considers relevant to determine whether, and to whom, to issue a licence.

Publishing invitation for applications

- 7 (1) An invitation for applications for a licence under section 6 [*commissioner may invite applications*] must be published by posting the invitation on the commissioner's website.
- (2) The invitation for applications for a licence referred to in subsection (1) must include:
- (a) the period during which applications will be accepted;
 - (b) the number of truck tags available in relation to the licence;
 - (c) all mandatory requirements for a licence;
 - (d) all other qualifications or criteria set out by the commissioner to determine whether, and to whom, to issue a licence;
 - (e) a statement that a person, by applying for a licence, waives any claim for compensation or damages in the event the commissioner refuses to issue a licence, unless the commissioner's conduct is dishonest, malicious or otherwise in bad faith.

Requirements for obtaining licence

- 8 (1) In this section, “**related person**”, in relation to an applicant for a licence, means any person with the same directing mind as the applicant, and includes any of the following:
- (a) a person controlled directly or indirectly by the applicant;
 - (b) a person that directly or indirectly controls the applicant;

CONTAINER TRUCKING REGULATIONPart 3 – Invitation for Licence Applications

- (c) a person that is directly or indirectly controlled by another person that
 - (i) directly or indirectly controls the applicant, or
 - (ii) the applicant directly or indirectly controls;
 - (d) a person from whom the applicant directly or indirectly acquired all or part of the applicant's container trucking business.
- (2) The requirements for obtaining a licence, in addition to any requirements set out in the Act or in any regulation under the Act, include the following:
- (a) a written statement prepared by a Canadian chartered bank, a British Columbia credit union or a person authorized under the *Financial Institutions Act* to carry on insurance business in British Columbia that, if the applicant obtains a licence, the bank, credit union or person intends to issue, on behalf of the applicant, security in the amount and form required by this regulation or by the commissioner;
 - (b) a statutory declaration of the applicant, stating that
 - (i) no sanctions have been imposed by the Vancouver Fraser Port Authority, the commissioner, the government or the government of Canada against the applicant, or against a related person, whether or not that related person exists at the time of the application,
 - (ii) no monies are owed to a trucker under the Act or regulations by the applicant, or by a related person, whether or not that related person exists at the time of the application,
 - (iii) the applicant has not engaged in any activity prohibited by this regulation,
 - (iv) no related person, whether or not that related person exists at the time of the application, has engaged in any activity prohibited by this regulation, and
 - (v) the applicant is eligible to obtain access to all marine terminals if the applicant obtains a licence;
 - (c) any other desirable criteria the commissioner considers appropriate under section 6 (2) (c) [*commissioner may invite applications*].
- (3) Despite subsection (2) (b) (i), (ii) and (iv), the commissioner may exempt an applicant for a licence from providing information in relation to sanctions imposed against, monies owed by, or activity engaged in by a related person, if it is unreasonable to require the applicant to provide the information.

[am. B.C. Reg. 72/2015, s. 2.]

Decision whether to issue licence

- 9** (1) If the period for submitting applications for a licence expires and one or more applicants have met the requirements for obtaining a licence under section 8 [*requirements for obtaining licence*], the commissioner may, after reviewing all

CONTAINER TRUCKING REGULATIONPart 4 – Rates and Remuneration

the desirable criteria relating to that applicant set out under section 6 (2) (c) *[commissioner may invite applications]*, do one of the following:

- (a) issue a licence to all the applicants that met the requirements;
 - (b) issue a licence to one or more applicants that met the requirements and that the commissioner considers best met the desirable criteria identified;
 - (c) refuse to issue any licence.
- (2) If the commissioner issues a licence under subsection (1), the commissioner must provide the licensee with a number of truck tags no greater than that specified under section 7 (2) (b) *[publishing invitation for applications]*.
[am. B.C. Reg. 72/2015, s. 3.]

PART 4 – RATES AND REMUNERATION**Division 1**

10 and 11 Repealed. [B.C. Reg. 72/2015, s. 4.]

12 to 15 Repealed. [B.C. Reg. 144/2019, s. 3.]

Division 2

16 to 19 Repealed. [B.C. Reg. 144/2019, s. 3.]

Division 3

20 to 22 Repealed. [B.C. Reg. 144/2019, s. 3.]

Division 4 – Other**Wait time remuneration**

- 23** On the date this regulation comes into force, it is a condition of every licence that a licensee pay each trucker who performed container trucking services on behalf of the licensee on or after April 3, 2014, and is, or was, paid per trip, all amounts paid to the licensee as wait time remuneration.

When payment must be made – directly employed operators and independent operators

- 24** (1) A licensee must pay remuneration or fuel surcharge owed to a directly employed operator at least semi-monthly and no later than 8 days after the end of a pay period.
- (2) A licensee must pay remuneration, wait time remuneration or fuel surcharge owed to an independent operator no later than 30 days after the end of the calendar month in which the independent operator performed the container

trucking services for which the remuneration, wait time remuneration or fuel surcharge is owed.

PART 5 – SECURITY

Amount of security

25 The commissioner may, by order or as a condition of a licence, require a licensee to provide security in the following amounts:

- (a) \$250 000 if the licensee has no more than 20 truck tags;
- (b) \$375 000 if the licensee has more than 20, but no more than 30, truck tags;
- (c) \$500 000 if the licensee has more than 30, but no more than 40, truck tags;
- (d) if the licensee has 41 or more truck tags, an amount calculated in accordance with the following formula:

$$\$250\,000 + \frac{(A - 20)}{10} \times \$125\,000$$

where:

A = the number of truck tags held by the licensee, rounded up to the next multiple of 10.

[am. B.C. Reg. 72/2015, s. 12.]

When security is realized

26 Security provided under the Act is realized by the government on the written demand of, and in the amount specified by, the commissioner, if one or more of the following occur:

- (a) the licensee is the subject of a judgment or order in relation to unpaid remuneration, wait time remuneration or fuel surcharges owed to a trucker;
- (b) the commissioner decides that the licensee owes a trucker unpaid remuneration, wait time remuneration or fuel surcharges;
- (c) the licensee fails to pay an administrative fine within the period required under section 35 (2) [*imposition of administrative fines*] of the Act.

Payment from security

27 (1) The commissioner must pay out from the proceeds of security realized under section 26 [*when security is realized*] in the following descending order of priority:

- (a) any amounts owed by the licensee to a trucker for unpaid remuneration, wait time remuneration or fuel surcharge, to the trucker;
- (b) any unpaid administrative fines, to the government;

- (c) any expenditures of the commissioner in connection with the realization of the security and the determination and settlement of valid claims, to the government;
 - (d) any remaining amount
 - (i) in the case of a surety bond, to the surety,
 - (ii) in the case of an irrevocable letter of credit, to the obligor, or
 - (iii) in any other case, to the person designated by the commissioner as the residual interest holder in the security.
- (2) If the commissioner is unable to pay in full 2 claims that rank equal in priority under subsection (1), the commissioner must distribute the remaining amount in proportion to the size of the claim.

PART 6 – ADMINISTRATIVE FINES

Maximum administrative fine

- 28** The maximum administrative fine the commissioner may impose on a licensee under section 34 (1) (c) [*imposition of administrative fines*] of the Act is the following:
- (a) in the case of a contravention of the Act, regulations or terms and conditions of the licensee's licence relating to the payment of remuneration, wait time remuneration or fuel surcharge, \$500 000;
 - (b) in any other case, \$10 000.

PART 7 – GENERAL

Industry advisory committee

- 29** The commissioner must establish an industry advisory committee.

Information-sharing agreements

- 30** The commissioner may enter into an information-sharing agreement with either or both of the following:
- (a) the Vancouver Fraser Port Authority;
 - (b) the government of Canada.

SCHEDULES 1 AND 2

Repealed. [B.C. Reg. 144/2019, s. 4.]