

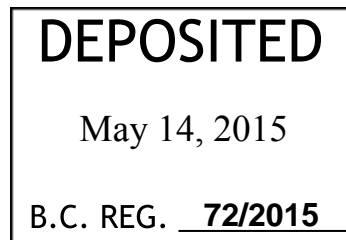
PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

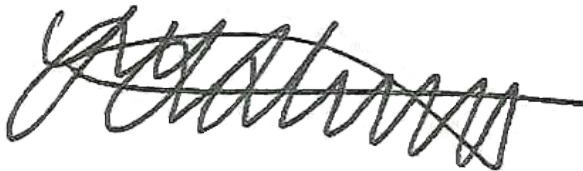
Order in Council No. **240**, Approved and Ordered **May 13, 2015**


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Container Trucking Regulation, B.C. Reg. 248/2014, is amended as set out in the attached Appendix.





Minister of Transportation and Infrastructure



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Container Trucking Act*, S.B.C. 2014, c. 28, ss. 16 (4) (a), 22 (1), 34 (6) (b) and 44 (1) and (2) (a), (h) and (k)

Other: OIC 757/2014

April 20, 2015

R/74/2015/97

APPENDIX

1 Section 1 (1) of the Container Trucking Regulation, B.C. Reg. 248/2014, is repealed and the following substituted:

(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 Division 3 [*Fuel Surcharges*] of Part 4 [*Rates and Remuneration*];

“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;

“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 Division 1 [*Rates*] of Part 4 [*Rates and Remuneration*], 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 *Section 8 (3) is amended by striking out “the commissioner may exempt an applicant for a licence providing information” and substituting “the commissioner may exempt an applicant for a licence from providing information”.*

3 *Section 9 (1) (b) is amended by striking out “one or more applicants that met requirements” and substituting “one or more applicants that met the requirements”.*

4 *Sections 10, 11 and 12 (2) are repealed.*

5 *Section 13 is amended*

(a) *in subsection (1) by striking out “If a licensee pays a directly employed operator hourly for container trucking services, the licensee must pay the directly employed operator no less than” and substituting “A licensee must pay a directly employed operator an amount equal to or greater than”, and*

(b) *by repealing subsection (2) and substituting the following:*

(2) This section applies whether the hours of container trucking services referred to in subsection (1) (a) or (b) were performed before or after the coming into force of this regulation, and whether or not the hours of container trucking services were performed on behalf of the licensee.

6 *Section 14 is amended*

(a) *by repealing subsection (1) and substituting the following:*

(1) This section applies if an independent operator employs an indirectly employed operator to perform container trucking services on behalf of a licensee. ,

(b) *in subsection (2) (b) by striking out “whichever one of the following applies:” and substituting “an amount equal to whichever one of the following applies:”, and*

(c) *by repealing subsection (3) and substituting the following:*

(3) This section applies whether the hours of container trucking services referred to in subsection (2) (a) or (b) were performed before or after the coming into force of this regulation, and whether or not the hours of container trucking services were performed on behalf of the licensee.

7 *Section 15 is amended*

(a) *in subsection (1) by striking out “the licensee must pay the independent operator no less than” and substituting “the licensee must pay the independent operator an amount equal to or greater than”, and*

(b) *by repealing subsection (2) and substituting the following:*

(2) This section applies whether the hours of container trucking services referred to in subsection (1) (a) or (b) were performed before or after the coming into force

of this regulation, and whether or not the hours of container trucking services were performed on behalf of the licensee.

8 Section 16 is repealed and the following substituted:

Minimum pay when directly employed operator is available for 4 hours

- 16** If a directly employed operator, paid per trip, agrees, at the request of a licensee, to be available to perform container trucking services for 4 or more continuous hours in one 24-hour period, the licensee must pay the directly employed operator no less than 4 times the applicable hourly rate under section 13 [*minimum rates for directly employed operators*].

9 Section 17 is repealed and the following substituted:

Minimum pay when indirectly employed operator is available for 4 hours

- 17** If an indirectly employed operator, paid per trip, agrees, at the request of a licensee or an independent operator performing container trucking services on behalf of a licensee, to be available to perform container trucking services for 4 or more continuous hours in one 24-hour period, the licensee must pay the indirectly employed operator the difference, if any, between the following:
- (a) 4 times the applicable hourly rate under section 14 [*minimum rates for indirectly employed operators*];
 - (b) the amount paid by the independent operator to the indirectly employed operator.
- 10 Section 18 is amended by striking out** “If an independent operator performs container trucking services for a licensee for 4 continuous hours or more in one 24-hour period,” **and substituting** “If an independent operator agrees, at the request of a licensee, to be available to perform container trucking services for 4 or more continuous hours in a 24-hour period,”.
- 11 Section 19 (2) is amended by striking out** “paid hourly”.
- 12 Section 25 (d) is amended by striking out** “if the licensee has 40 or more truck tags” **and substituting** “if the licensee has 41 or more truck tags”.