

2007 No. 320

HEALTH AND SAFETY

The Construction (Design and Management) Regulations 2007

Made - - - - - 7th February 2007

Laid before Parliament 15th February 2007

Coming into force - - - 6th April 2007



£5.50

In doing so he gives effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, and it appearing expedient to him after consulting such bodies as appear to him to be appropriate in accordance with section 80(4) of that Act**(b)**.

Citation and commencement

Interpretation

(b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and the clearance or preparation of the site or structure for use or occupation at its conclusion;

(b) As regards Scotland, see also section 57(1) of the Scotland Act 1998 (1998 c.46) which provides that, despite the transfer to the Scottish Ministers by virtue of that Act of functions in relation to observing and implementing obligations under Community law, any function of a Minister of the Crown in relation to any matter shall continue to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972 (1972 c.68).

- and any reference to a structure includes a part of a structure.

“vehicle” includes any mobile work equipment;

“workplace” means a workplace within the meaning of regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992(a) other than a construction site; and

“writing” includes writing which is kept in electronic form and which can be printed.

(a) in which it is capable of being reproduced as a printed copy when required; and

(b) which is secure from loss or unauthorised interference.

(a) 30 days; or

(b) 500 person days,

of construction work.

3.—(1) These Regulations shall apply—

(b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of article 8(1)(a) of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001**(b)**.

(3) The duties under Part 3 shall apply only where a project—

(a) is notifiable; and

(b) is carried out for or on behalf of, or by, a client.

(4) Part 4 shall apply only in relation to a construction site.

(5) Regulations 9(1)(b), 13(7), 22(1)(c), and Schedule 2 shall apply only in relation to persons at work who are carrying out construction work.

(b) S.I. 2001/2127.

PART 2

GENERAL MANAGEMENT DUTIES APPLYING TO CONSTRUCTION PROJECTS

Competence

- 4.—(1) No person on whom these Regulations place a duty shall—
- (a) appoint or engage a CDM co-ordinator, designer, principal contractor or contractor unless he has taken reasonable steps to ensure that the person to be appointed or engaged is competent;
 - (b) accept such an appointment or engagement unless he is competent;
 - (c) arrange for or instruct a worker to carry out or manage design or construction work unless the worker is—
 - (i) competent, or
 - (ii) under the supervision of a competent person.
- (2) Any reference in this regulation to a person being competent shall extend only to his being competent to—
- (a) perform any requirement; and
 - (b) avoid contravening any prohibition,
- imposed on him by or under any of the relevant statutory provisions.

Co-operation

- 5.—(1) Every person concerned in a project on whom a duty is placed by these Regulations, including paragraph (2), shall—
- (a) seek the co-operation of any other person concerned in any project involving construction work at the same or an adjoining site so far as is necessary to enable himself to perform any duty or function under these Regulations; and
 - (b) co-operate with any other person concerned in any project involving construction work at the same or an adjoining site so far as is necessary to enable that person to perform any duty or function under these Regulations.
- (2) Every person concerned in a project who is working under the control of another person shall report to that person anything which he is aware is likely to endanger the health or safety of himself or others.

Co-ordination

6. All persons concerned in a project on whom a duty is placed by these Regulations shall co-ordinate their activities with one another in a manner which ensures, so far as is reasonably practicable, the health and safety of persons—
- (a) carrying out the construction work; and
 - (b) affected by the construction work.

General principles of prevention

- 7.—(1) Every person on whom a duty is placed by these Regulations in relation to the design, planning and preparation of a project shall take account of the general principles of prevention in the performance of those duties during all the stages of the project.
- (2) Every person on whom a duty is placed by these Regulations in relation to the construction phase of a project shall ensure so far as is reasonably practicable that the general principles of prevention are applied in the carrying out of the construction work.

8. Where there is more than one client in relation to a project, if one or more of such clients elect in writing to be treated for the purposes of these Regulations as the only client or clients, no other client who has agreed in writing to such election shall be subject after such election and consent to any duty owed by a client under these Regulations save the duties in regulations 5(1)(b), 10(1), 15 and 17(1) insofar as those duties relate to information in his possession.

9.—(1) Every client shall take reasonable steps to ensure that the arrangements made for managing the project (including the allocation of sufficient time and other resources) by persons with a duty under these Regulations (including the client himself) are suitable to ensure that—

- (2) The client shall take reasonable steps to ensure that the arrangements referred to in paragraph (1) are maintained and reviewed throughout the project.

- (a) to ensure so far as is reasonably practicable the health and safety of persons—
 - (i) engaged in the construction work,
 - (ii) liable to be affected by the way in which it is carried out, and
 - (iii) who will use the structure as a workplace; and
- (b) without prejudice to sub-paragraph (a), to assist the persons to whom information is provided under this regulation—
 - (i) to perform their duties under these Regulations, and
 - (ii) to determine the resources referred to in regulation 9(1) which they are to allocate for managing the project.

Additional duties of contractors

19.—(1) Where a project is notifiable, no contractor shall carry out construction work in relation to the project unless—

- (a) he has been provided with the names of the CDM co-ordinator and principal contractor;
- (b) he has been given access to such part of the construction phase plan as is relevant to the work to be performed by him, containing sufficient detail in relation to such work; and
- (c) notice of the project has been given to the Executive, or as the case may be the Office of Rail Regulation, under regulation 21.

(2) Every contractor shall—

- (a) promptly provide the principal contractor with any information (including any relevant part of any risk assessment in his possession or control) which—
 - (i) might affect the health or safety of any person carrying out the construction work or of any person who may be affected by it,
 - (ii) might justify a review of the construction phase plan, or
 - (iii) has been identified for inclusion in the health and safety file in pursuance of regulation 22(1)(j);
- (b) promptly identify any contractor whom he appoints or engages in his turn in connection with the project to the principal contractor;
- (c) comply with—
 - (i) any directions of the principal contractor given to him under regulation 22(1)(e), and
 - (ii) any site rules;
- (d) promptly provide the principal contractor with the information in relation to any death, injury, condition or dangerous occurrence which the contractor is required to notify or report under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(a).

(3) Every contractor shall—

- (a) in complying with his duty under regulation 13(2) take all reasonable steps to ensure that the construction work is carried out in accordance with the construction phase plan;
- (b) take appropriate action to ensure health and safety where it is not possible to comply with the construction phase plan in any particular case; and
- (c) notify the principal contractor of any significant finding which requires the construction phase plan to be altered or added to.

General duties of CDM co-ordinators

20.—(1) The CDM co-ordinator shall—

- (a) give suitable and sufficient advice and assistance to the client on undertaking the measures he needs to take to comply with these Regulations during the project (including, in particular, assisting the client in complying with regulations 9 and 16);
- (b) ensure that suitable arrangements are made and implemented for the co-ordination of health and safety measures during planning and preparation for the construction phase, including facilitating—
 - (i) co-operation and co-ordination between persons concerned in the project in pursuance of regulations 5 and 6, and
 - (ii) the application of the general principles of prevention in pursuance of regulation 7; and
- (c) liaise with the principal contractor regarding—

(a) S.I. 1995/3163, to which there are amendments not relevant to these Regulations.

- (i) the contents of the health and safety file,
 - (ii) the information which the principal contractor needs to prepare the construction phase plan, and
 - (iii) any design development which may affect planning and management of the construction work.
- (2) Without prejudice to paragraph (1) the CDM co-ordinator shall—
- (a) take all reasonable steps to identify and collect the pre-construction information;
 - (b) promptly provide in a convenient form to—
 - (i) every person designing the structure, and
 - (ii) every contractor who has been or may be appointed by the client (including the principal contractor),
 such of the pre-construction information in his possession as is relevant to each;
 - (c) take all reasonable steps to ensure that designers comply with their duties under regulations 11 and 18(2);
 - (d) take all reasonable steps to ensure co-operation between designers and the principal contractor during the construction phase in relation to any design or change to a design;
 - (e) prepare, where none exists, and otherwise review and update a record (“the health and safety file”) containing information relating to the project which is likely to be needed during any subsequent construction work to ensure the health and safety of any person, including the information provided in pursuance of regulations 17(1), 18(2) and 22(1)(j); and
 - (f) at the end of the construction phase, pass the health and safety file to the client.

Notification of project by the CDM co-ordinator

21.—(1) The CDM co-ordinator shall as soon as is practicable after his appointment ensure that notice is given to the Executive containing such of the particulars specified in Schedule 1 as are available.

(2) Where any particulars specified in Schedule 1 have not been notified under paragraph (1) because a principal contractor has not yet been appointed, notice of such particulars shall be given to the Executive as soon as is practicable after the appointment of the principal contractor, and in any event before the start of the construction work.

(3) Any notice under paragraph (1) or (2) shall be signed by or on behalf of the client or, if sent by electronic means, shall otherwise show that he has approved it.

(4) Insofar as the project includes construction work of a description for which the Office of Rail Regulation is made the enforcing authority by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006^(a), paragraphs (1) and (2) shall have effect as if any reference to the Executive were a reference to the Office of Rail Regulation.

Duties of the principal contractor

22.—(1) The principal contractor for a project shall—

- (a) plan, manage and monitor the construction phase in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health or safety, including facilitating—
 - (i) co-operation and co-ordination between persons concerned in the project in pursuance of regulations 5 and 6, and
 - (ii) the application of the general principles of prevention in pursuance of regulation 7;

^(a) S.I. 2006/557, to which there are amendments not relevant to these Regulations.