## 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



The Secretary of State makes the following Regulations in the exercise of the powers conferred upon him by sections 15(1), (2), (3)(a) and (c), 5(a), (6)(a) and (b), (8) and (9), 47(2) and (3), 80(1) and (2) and 82(3)(a) of, and paragraphs 1(1) and (2), 6, 7, 8(1), 9 to 12, 14, 15(1), 16, 18, 20 and 21 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) ("the 1974 Act").

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).

### PART 1

### INTRODUCTION

### Citation and commencement

1. These Regulations may be cited as the Construction (Design and Management) Regulations 2007 and shall come into force on 6th April 2007.

### Interpretation

- 2.—(1) In these Regulations, unless the context otherwise requires—
  - "business" means a trade, business or other undertaking (whether for profit or not);
  - "client" means a person who in the course or furtherance of a business—
  - (a) seeks or accepts the services of another which may be used in the carrying out of a project for him; or
  - (b) carries out a project himself;
  - "CDM co-ordinator" means the person appointed as the CDM co-ordinator under regulation 14(1);
  - "construction site" includes any place where construction work is being carried out or to which the workers have access, but does not include a workplace within it which is set aside for purposes other than construction work;
  - "construction phase" means the period of time starting when construction work in any project starts and ending when construction work in that project is completed;
  - "construction phase plan" means a document recording the health and safety arrangements, site rules and any special measures for construction work;
  - "construction work" means the carrying out of any building, civil engineering or engineering construction work and includes—
  - (a) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances), decommissioning, demolition or dismantling of a structure;
  - (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;

<sup>(</sup>a) 1974 c.37; sections 11(2), 15(1) and 50(3) were amended by the Employment Protection Act 1975 c.71, Schedule 15, paragraphs 4, 6 and 16(3) respectively.

<sup>(</sup>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).

- (c) the assembly on site of prefabricated elements to form a structure or the disassembly on site of prefabricated elements which, immediately before such disassembly, formed a structure:
- (d) the removal of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure; and
- (e) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

but does not include the exploration for or extraction of mineral resources or activities preparatory thereto carried out at a place where such exploration or extraction is carried out;

"contractor" means any person (including a client, principal contractor or other person referred to in these Regulations) who, in the course or furtherance of a business, carries out or manages construction work:

"design" includes drawings, design details, specification and bill of quantities (including specification of articles or substances) relating to a structure, and calculations prepared for the purpose of a design;

"designer" means any person (including a client, contractor or other person referred to in these Regulations) who in the course or furtherance of a business—

- (a) prepares or modifies a design; or
- (b) arranges for or instructs any person under his control to do so,

relating to a structure or to a product or mechanical or electrical system intended for a particular structure, and a person is deemed to prepare a design where a design is prepared by a person under his control;

"excavation" includes any earthwork, trench, well, shaft, tunnel or underground working;

"the Executive" means the Health and Safety Executive;

"the general principles of prevention" means the general principles of prevention specified in Schedule 1 to the Management of Health and Safety at Work Regulations 1999(a)

"health and safety file"—

- (a) means the record referred to in regulation 20(2)(e); and
- (b) includes a health and safety file prepared under regulation 14(d) of the Construction (Design and Management) Regulations 1994(b);

"loading bay" means any facility for loading or unloading;

"place of work" means any place which is used by any person at work for the purposes of construction work or for the purposes of any activity arising out of or in connection with construction work;

"pre-construction information" means the information described in regulation 10 and, where the project is notifiable, regulation 15.

"principal contractor" means the person appointed as the principal contractor under regulation 14(2);

"project" means a project which includes or is intended to include construction work and includes all planning, design, management or other work involved in a project until the end of the construction phase;

"site rules" means the rules described in regulation 22(1)(d);

"structure" means-

<sup>(</sup>a) S.I. 1999/3242, to which there are amendments not relevant to these Regulations.

<sup>(</sup>b) S.I. 1994/3140, amended by S.I. 2006/557; there are other amending instruments but none is relevant.

- (a) any building, timber, masonry, metal or reinforced concrete structure, railway line or siding, tramway line, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipe-line, cable, aqueduct, sewer, sewage works, gasholder, road, airfield, sea defence works, river works, drainage works, earthworks, lagoon, dam, wall, caisson, mast, tower, pylon, underground tank, earth retaining structure or structure designed to preserve or alter any natural feature, fixed plant and any structure similar to the foregoing; or
- (b) any formwork, falsework, scaffold or other structure designed or used to provide support or means of access during construction work,

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

"traffic route" means a route for pedestrian traffic or for vehicles and includes any doorway, gateway, loading bay or ramp;

"vehicle" includes any mobile work equipment;

"work equipment" means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not);

"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.

- (2) Any reference in these Regulations to a plan, rules, document, report or copy includes a plan, rules, document, report or copy which is kept in a form—
  - (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.
- (3) For the purposes of these Regulations, a project is notifiable if the construction phase is likely to involve more than—
  - (a) 30 days; or
  - (b) 500 person days,

of construction work.

### **Application**

- 3.—(1) These Regulations shall apply—
  - (a) in Great Britain; and
  - (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).
- (2) Subject to the following paragraphs of this regulation, these Regulations shall apply to and in relation to construction work.
  - (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.

<sup>(</sup>a) S.I. 1992/3004, amended by S.I. 2002/2174 and S.I. 2005/735; there are other amending instruments but none is relevant.

<sup>(</sup>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 coordinate 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.

### **Election by clients**

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.

### Client's duty in relation to arrangements for managing projects

- **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—
  - (a) the construction work can be carried out so far as is reasonably practicable without risk to the health and safety of any person;
  - (b) the requirements of Schedule 2 are complied with in respect of any person carrying out the construction work; and
  - (c) any structure designed for use as a workplace has been designed taking account of the provisions of the Workplace (Health, Safety and Welfare) Regulations 1992 which relate to the design of, and materials used in, the structure.
- (2) The client shall take reasonable steps to ensure that the arrangements referred to in paragraph (1) are maintained and reviewed throughout the project.

### Client's duty in relation to information

- 10.—(1) Every client shall ensure that
  - (a) every person designing the structure; and
  - (b) every contractor who has been or may be appointed by the client,

is promptly provided with pre-construction information in accordance with paragraph (2).

- (2) The pre-construction information shall consist of all the information in the client's possession (or which is reasonably obtainable), including—
  - (a) any information about or affecting the site or the construction work;
  - (b) any information concerning the proposed use of the structure as a workplace;
  - (c) the minimum amount of time before the construction phase which will be allowed to the contractors appointed by the client for planning and preparation for construction work; and
  - (d) any information in any existing health and safety file,

which is relevant to the person to whom the client provides it for the purposes specified in paragraph (3).

- (3) The purposes referred to in paragraph (2) are—
  - (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—

<sup>(</sup>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;

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