

The Construction (Design and Management) Regulations 2015

Notes on the Draft Guidance Document published 9 January 2015

Overview

The new CDM Regulations come into force on 6 April 2015.

The HSE's L-Series Guidance document, published on 9th January 2015 proposes several changes to the Existing CDM 2007 Regulations.

These are:

- Strengthening of Client duties;
- Introduction of Domestic Clients;
- Replacement of CDM Coordinator by a **Principal Designer** for the planning, managing, monitoring and coordination of pre-construction phase health and safety;
- Principal Designer and Principal Contractor will be required on all projects where there will be more than one contractor working on the project;
- Replacement of explicit requirement for dutyholder competence with need for appropriate Information, Instruction, Training & Supervision;
- Change to the HSE's Notification level - now only required for projects lasting more than 30 days and involving more than 20 workers simultaneously.

Industry Guidance Documents

In the meantime, CITB have published **draft** Industry guidance documents.

These have been produced for the five CDM dutyholders

- Clients (inc Domestic Clients),
- Designers,
- Principal Designers,
- Principal Contractors, and
- Contractors
- And one for construction workers.

These documents set out, hopefully in practical terms, what actions are required of them to deliver a safe and healthy construction project and have been written with small businesses in mind.

However, the new proposed Regulations and supporting guidance documents are all in **draft form before they come into force and may be subject to minor changes**. They do meanwhile offer duty holders the opportunity to familiarise themselves with the HSE's main requirements before they come into force in April.

Client Duties

Working through the documents, the most significant change in the CDM 2015 regs is the emphasis on the client's duties.

Under the 2007 Regulations, a Client could delegate their duties by appointing the CDM-Coordinator. This is no longer possible.

The 2015 Regulations require that the Client has overall responsibility for the successful management of the project.

Domestic Clients are now brought within the Regulations.

To do this the client must:

- Prepare a brief for the project
- Make suitable arrangements for the management of the project
- Select a project team and formally (i.e. in writing) appoint the team.
- Ensure that the team have the capability to deliver the scheme in a way that secures Health and Safety.
- Provide information to the team
- Notify the project to enforcing authorities
- Check that the principle designer is carrying out their duties.
- Ensure that the Construction Phase plan is in place
- Ensure that welfare facilities are in place
- Ensure that management arrangements are in place
- Check completion and handover arrangements
- Check that the H&S file has been prepared by the Principal Designer
- Maintain and make available the H&S file

The client may have the assistance of the Principle Designer in achieving this.

However on some projects, this role of Principle Designer might fall to a Project Manager or on a D&B project, the Employers Agent. In any event most clients will require some degree of assistance in order to fulfil their duties. We need to consider how this role might be delivered.

Principal Designers

Principal Designers take the place of the CDM Coordinator under the 2007 Regulations.

They are Designers appointed by the client in projects involving more than one contractor.

They can be an organisation or an individual with sufficient knowledge, experience and ability to carry out the role.

Their duties are to plan, manage, monitor and co-ordinate health and safety in the preconstruction phase of a project.

This includes:

- identifying, eliminating or controlling foreseeable risks
- Ensuring designers carry out their duties.
- Prepare and provide relevant information to other duty holders.
- Liaise with the principal contractor to help in the planning, management, monitoring and co-ordination of the construction phase.
- preparing the health and safety file

Designers

Those who, as part of a business,

Prepare or modify designs for a building, product or prepare or modify designs to system relating to construction work.

When preparing or modifying designs, eliminate, reduce or control foreseeable risks that may arise during:

- construction
- The maintenance and use of a building once it is built.
- Provide information to other members of the project team to help them fulfil their duties.

Principal Contractors

Contractors appointed by the client to co-ordinate the construction phase of a project where it involves more than one contractor.

Plan, manage, monitor and co-ordinate the construction phase of a project. This includes:

- liaising with the client and principal designer
- preparing the construction phase plan
- Organising co-operation between contractors and co-ordinating their work.

Ensure that:

- suitable site inductions are provided
- reasonable steps are taken to prevent unauthorised access
- workers are consulted and engaged in securing their health and safety
- Welfare facilities are provided.

The Principal Designer is responsible for preparing the **health and safety file** and The Principal Contractor should pass on to them any relevant health and safety information required.

Contractors

Those who do the actual construction work. They can be either an individual or a company.

- Plan, manage and monitor construction work under their control so that it is carried out without risks to health and safety.
- For projects involving more than one contractor, co-ordinate their activities with others in the project team – in particular, comply with directions given to them by the principal designer or principal contractor.
- For single-contractor projects, prepare a construction phase plan.

Workers

The people who work for or under the control of contractors on a construction site

They must:

- be consulted about matters which affect their health, safety and welfare
- take care of their own health and safety and that of others who may be affected by their actions
- report anything they see which is likely to endanger either their own or others' health and safety
- Co-operate with their employer, fellow workers, contractors and other duty holders.

More than one duty holder

Organisations or individuals can carry out the role of more than one duty holder, provided they have the skills, knowledge, experience and (if an organisation) the organisational capability necessary to carry out those roles in a way that secures health and safety.

Transitional Arrangements

The new regulations come into force in April 2015, and there are transitional arrangements for projects which started under the 2007 regulations. A period of 6 months will be allowed for schemes to either complete under the old regulations, or for a Principle Designer to be appointed to take over from the CDM Coordinator.

How this will actually work in practice, and whether Duty Holders will be willing or able to fulfil these new duties without calling upon others, remains to be seen.

Further Guidance

I give below the links to the CITB documents which are relevant to the detail duties of all the duty holders.

<http://www.citb.co.uk/Documents/CDM%20Regs/industry-guidance-clients.pdf>
<http://www.citb.co.uk/Documents/CDM%20Regs/industry-guidance-contractors.pdf>
<http://www.citb.co.uk/Documents/CDM%20Regs/industry-guidance-designers.pdf>
<http://www.citb.co.uk/Documents/CDM%20Regs/industry-guidance-principal-contractors.pdf>
<http://www.citb.co.uk/Documents/CDM%20Regs/industry-guidance-principal-designer.pdf>
<http://www.citb.co.uk/Documents/CDM%20Regs/industry-guidance-workers.pdf>

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