

# CDM2015 – Guidance for Designers on the proposed changes and the implications for small practices.



The Health and Safety Executive are proposing changes to the Construction (Design & Management) Regulations. It is anticipated that these changes, if approved by the Minister, will come into force in April 2015.

The final draft of the CDM2015 regulations is not yet available and the following information is based on the draft CDM Regulations published as part of the HSE's Consultation Document, together with information provided by the HSE subsequent to that consultation. As such, the information provided below may be subject to minor changes.

## Reasons for the HSE changing CDM2007

- The broad structure of CDM 2007 was fit for purpose;
- problems generally arose through misinterpretation of the Regulations;
- the Regulations had not borne down on bureaucracy as hoped;
- the Regulations had led to an industry approach to competence which was heavy-handed and in many cases burdensome, particularly on SMEs;
- the co-ordination function in the pre-construction phase was not in many cases well-embedded.
- Two thirds or more of fatalities now occur on small sites – sites where fewer than 15 people work.
- The larger, more structured part of the industry has made significant progress in improving its management of health and safety risks. Its motivation for achieving higher standards is often one of continuous improvement and innovation leading to best practice, rather than just meeting regulatory requirements.

## HSE Objectives for CDM2015

- maintain or improve worker protection;
- simplify the regulatory package;
- improve health and safety standards on small construction sites;
- implement the Temporary or Mobile Construction Sites Directive (TMCSA) in a proportionate way;
- discourage bureaucracy; and
- meet the government's better regulation principles.

## Changes to dutyholder roles

### Clients:

Definition of a Client under CDM will include domestic projects.

Where there is more than one contractor, or it is reasonably foreseeable that there will be, the client must appoint a Principal Designer and a Principal Contractor. For commercial projects the Client is deemed to undertake those roles if no appointments made.

Clients will be responsible for notification of applicable projects to the HSE.

### Domestic Clients:

Where the Client is a domestic client:

- The Client's duties must be carried out by the contractor or the principal contractor;
- If there is likely to be more than one contractor working on the site then the client must appoint a PD and PC;
- The client can have a written agreement with the PD that the PD carries out the Client's duties.

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### **Designers:**

Designers' duties regarding elimination, reduction or control of risks has been more clearly spelt out.

- Designer must take into account the general principles of prevention and any pre-construction information to eliminate, sfarp, foreseeable risk to the h&s of any persons....
- If it is not possible to eliminate then (sfarp) take steps to reduce and control, provide information and ensure information is included in H&S File.

### **CDM Coordinators:**

- Will no longer exist as a statutory appointment from April 2015;
- Any existing appointment will be allowed to run until October 2015 at the latest;

Much of the CDMC's duties under CDM2007 will be taken on by the new Principal Designer role.

### **Principal Contractors:**

Very little change here.

- Construction phase plans no longer needed to be checked by client or client's adviser before start on site. **Clients may be required to check CPPs in the final version of the regulations;**
- Principal Contractor is responsible for updating, reviewing and revising the Health & Safety File.

### **Contractors:**

Again, very little change here, but...

- If there is no Principal Contractor, a construction phase plan is required;
- Contractor must comply with any directions given by the Principal Designer or Principal Contractor.

## **The Principal Designer role – what does it involve?**

The Principal Designer (PD) is responsible for planning, managing, monitoring and coordinating health and safety during the pre-construction phase, taking into account the general 'principles of prevention'.

Definitions:

**Principal Designer** means *"...the designer in control of the pre-construction phase appointed under regulation 6(1)(a)..."*

**Designer** means *"...any person who in the course or furtherance of a business –*

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

The PD must ensure:

- the project is carried out without risk to health and safety (sfarp);
- that assistance is provided to the client in preparation of pre-construction information;
- identification, elimination or control of foreseeable risks to h&s (sfarp);
- the cooperation of all;
- that designers comply with their duties;
- the prompt provision of pre-construction information to all designers and all contractors appointed by the client;
- that they liaise with the principal contractor for duration of project;
- Prepare a Health and Safety File which includes information from client regarding the Control of Asbestos Regulations 2012.

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## **Application and Notification:**

- CDM2015 applies to all construction work;
- Pre-construction archaeological investigation is no longer considered as construction work;
- Pre-construction information and the pre-construction phase are clearly defined:
  - Pre-construction information is the client's responsibility;
  - Pre-construction is any period when design or preparatory work is undertaken.

If no appointments are made by the Domestic Client:

- the first Designer appointed will be deemed to be the Principal Designer;
- The first Contractor appointed will be deemed to be the Principal Contractor.

A project is Notifiable whenever construction work is expected to last longer than 30 days **and** have more than 20 workers simultaneously at any point, or exceed 500 person days.

## **Implications for small practices**

- You need to understand these changes thoroughly;
- Advise your clients adequately and as soon as you are appointed;
- Only take on the PD role if you have the capability to do so or have someone capable to help you discharge the duties;
- The role will require adequate resources to discharge – ensure you have allocated a suitable and sufficient fee for the PD role;
- Employing someone else to do the PD role on your behalf will not transfer the legal liability but may help you discharge the duties.
- Many more projects will require the appointment of a Principal Designer and Principal Contractor;
- Not as many projects will require Notification to the HSE;
- Emphasis is on people taking responsibility for risk, not passing it on;
- Competent designers will be expected to be capable of discharging the PD role on smaller projects if asked by the client;
- Larger or more complex projects may require the appointment of a construction health and safety (CDM) consultant to advise and assist the PD or client.

## **Summary**

- **Until April 2015 it is business as usual;**
- **From April 2015 (subject to government approval) you may be asked by clients to take on responsibility for the coordination of pre-construction health and safety (the PD role);**
- **Only take on the PD role if your practice is capable of doing so;**
- **Ensure you and your staff have adequate training;**
- **Consider using a specialist h&s consultant for more complex/larger projects if you do not have the capability or do not want to undertake the PD role yourself;**
- **Ensure you are adequately resourced;**
- **Ensure you have an adequate form of appointment as PD;**
- **Ensure you notify your PII broker that you are undertaking the PD role.**