

The Construction (Design and Management) Regulations 2015

The Construction (Design and Management) Regulations 2015 (CDM 2015) came into force on 6 April this year and apply to all building and construction projects, regardless of the size, duration and nature of the work. The detailed regulations (SI 2015/51) can be found on the Legislation.gov.uk website¹ and have been described as providing the most significant changes in construction site health and safety for a decade.

For the first time any building work — even if it is just a new extension on a domestic house — will need a written construction phase plan.

This article examines the new regulations and highlights the main changes they introduce when compared to their predecessors, CDM 2007.

Origins of the CDM 2015 — the European connection

Like most health and safety legislation of the past 20 years, CDM 2015 has its origins in an EU directive, in this case Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites. This is one of the directives building on the basic health and safety principles laid down in the Framework Directive (89/391/EEC).

It introduces many of the terms with which the construction industry will become familiar as it adapts to CDM 2015 including the concepts of project supervisor, health and safety coordinator and worker consultation.

From CDM 2007 to 2015

Where the 2007 regulations established the CDM co-ordinator role, this has been replaced by a principal designer which means that the responsibility for co-ordination of the pre-construction phase will rest with an existing member of the design team.

The new regulations also recognise the influence and importance of the client as the head of the supply chain, arguing that they are best placed to set standards throughout a project.

Finally, as the HSE highlights, the question of competence will be split into its component parts of skills, knowledge, training and experience, and — if it relates to an organisation — organisational capability. "This will provide clarity and help the industry to both assess and demonstrate that construction project teams have the right attributes to deliver a healthy and safe project," the HSE has said.

It also stresses that the technical standards set out in Part 4 of CDM 2015 ("General requirements for all construction sites") remain essentially unchanged from those in guidance related to CDM 2007.

Note:

Pre-construction archaeological investigations are not included within the scope of the definition of construction work in CDM 2015.

All you need to know

Even before the regulations were published, various agencies began publishing detailed guidance, with the Construction Industry Training Board (CITB) leading the way with a package of six guidesⁱⁱ which are aimed at the key groups affected by CDM 2015:

- clients;
- contractors;
- designers;
- principal contractors;
- principal designers; and
- workers.

Some of these titles are self-explanatory but it is worth noting that, in this context:

Designer and principal designer

- a designer is someone who, as part of a business, prepares or modifies designs for a building, product or system relating to construction work while a principal designer is appointed by the client of projects with more than one contractor. This role can be taken by an organisation or an individual provided whoever is chosen has sufficient knowledge, experience and ability.

Contractor and principal contractor

- similarly, a contractor is the individual or organisation doing the actual construction work while the principal contractor is appointed by the client to plan, manage, monitor and co-ordinate health and safety during the construction phase of a project when there is more than one contractor involved.

More help is available from the Health and Safety Executive (HSE) in the form of guidance on the new regulations, available on the HSE website.ⁱⁱⁱ The HSE has made clear that the duties set out below, and particularly those of the principal designer, are to be carried out within the usual health and safety proviso "so far as is reasonably practicable".

Who does what

The client ensures that:

- other duty-holders are appointed;
- sufficient time and resources are allocated to the project;
- relevant information is prepared and provided to other duty-holders;
- the principal designer and principal contractor carry out their duties; and
- welfare facilities are provided.

The designer must:

- eliminate, reduce or control foreseeable risks that may happen during construction or maintenance and use of a building after it has been built; and
- provide information to other members of the project team to help them fulfil their duties.

The principal designer (who replaces the CDM co-ordinator under CDM 2007) is responsible for:

- identifying, eliminating or controlling foreseeable risks;
- ensuring designers carry out their duties;
- preparing and providing relevant information to other duty-holders; and
- liaising with the principal contractor to help in the planning, management and monitoring of the health and safety in the construction phase.

The contractor's duty is to:

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

The principal contractor has to:

- plan, manage, monitor and coordinate health and safety in the construction phase of a project;
- liaise with the client and principal designer;
- prepare the construction phase plan;
- organise co-operation between contractors and coordinate their work;
- ensure that suitable site inductions are provided;
- make sure that reasonable steps are taken to prevent unauthorised access;
- ensure that workers are consulted and engaged in health and safety matters; and
- ensure that welfare facilities are provided.

Finally, workers should:

- be consulted about matters which affect their health, safety and welfare;
- take care of their own health and safety and 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; and
- co-operate with their employer, fellow workers, contractors and other duty-holders.

Transitional period

Now CDM 2015 has come into force, there will be a transitional period that will run for six months until 6 October 2015.

CDM co-ordinator:

Where an existing project has a CDM co-ordinator, a principal designer must be appointed within six months of the date the regulations came into force (6 April). During the interim period the existing CDM co-ordinator must fulfil the duties laid down in the regulations.

Principal contractor:

As the core duties of the principal contractor have only minor modifications from those imposed under CDM 2007, a principal contractor who has been appointed to an existing project under the 2007 regulations will be treated as if they had been appointed as a principal contractor under CDM 2015.

ⁱ http://www.legislation.gov.uk/uksi/2015/51/pdfs/uksi_20150051_en.pdf

ⁱⁱ <http://www.citb.co.uk/health-safety-and-other-topics/health-safety/construction-design-and-management-regulations/cdm-guidance-documents/>

ⁱⁱⁱ <http://www.hse.gov.uk/pubns/books/l153.htm>