

Construction & Engineering

CDM Health Warning- – The New Story

The Construction (Design & Management) Regulations 2007 (CDM Regulations) come into force on 6 April 2007. These regulations introduce significant changes to CDM projects, affecting both private and public sector alike. A draft Approved Code of Practice (“ACoP”) has been issued. There is no sign yet of the promised industry approved guidance. The Regulations, with some limited modifications, will apply to projects which began before 6 April 2007.

New Duties

The Client

- Can no longer appoint a ‘Client’s Agent’ to assume Client’s duties
- Can select one ‘Client’, where there are several clients involved in a project
- Must ensure suitable project management arrangements for health and safety remain in place and must allocate sufficient resources (including time) to ensure this is the case
- Must give designers and contractors proper notice, pre-start on site, for planning and preparation
- Has an enhanced duty to ensure that other duty holders have made sufficient arrangements for health and safety
- Must ensure that the principal Contractor has adequate welfare facilities pre-start on site

The CDM Co-ordinator

- Replaces the Planning Supervisor
- Is required to advise and assist the Client in the discharge of his duties, including the adequacy of other dutyholders’ risk management arrangements
- Is to be appointed as soon as possible after the initial design work/construction preparation begins
- Must be appointed before Designers and Contractors (other than for preliminary design)

The Designer

- Must not begin design (other than preliminary design) until a CDM Co-ordinator has been appointed
- Must not commence work unless the Client is aware of his duties
- Must, so far as reasonably practicable, design to eliminate hazards and reduce risks to the health and safety of persons carrying out construction work, cleaning or maintaining the permanent fixtures or using the structure as a place of work
- Must provide sufficient information to assist any other Designers and the principal Contractor fulfil their duties

The Principal Contractor

- Must advise Contractors they appoint how much time is available for the planning and preparation of the construction work
- Must not carry out construction work unless the Client is aware of his duties

New Terminology

- The Pre-Tender Plan to be replaced by the requirement for the Client to provide Designers and Contractors with more detailed pre-construction information. Where there are gaps in the information required, the Client must commission surveys or make 'other reasonable enquiries'

Competence

- A worker must not be instructed to carry out construction work unless they are competent or under the supervision of a competent person
- The ACoP includes new detailed guidance for the assessment of the competency of Designers, CDM Co-ordinators, Contractors and Workers

Notification

- A project remains notifiable if it is expected to involve more than 30 days or 500 person days of construction work
- Notification must be made to the HSE by the CDM Co-ordinator as soon as possible after their appointment

The Business Impact

- The removal of the Client's agent provision will affect how projects are tackled from the outset particularly in the PFI/PPP sector

How does it affect your Contracts?

- Existing planning supervisor appointments will become CDM co-ordinator appointments by default
- Otherwise contracts will require to reflect the new statutory duties

Upcoming Events

D&W will be holding seminars on 'The New CDM Regulations' details are noted below.

Thursday 22 March 2007 in our offices at Bush House, Aldwych, London WC2B 4EZ

Tuesday 27 March 2007 in our offices at 191 West George Street, Glasgow G2 2LD

You can register online at www.dundas-wilson.com or by email to sarah.cranston@dundas-wilson.com

This bulletin is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

If you would like any further information in respect of Construction or Health and Safety please call the person at D&W with whom you normally liaise, or one of the following specialists:

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