STATUTORY RULES OF NORTHERN IRELAND

2016 No. 146

HEALTH AND SAFETY

The Construction (Design and Management) Regulations (Northern Ireland) 2016

Made - - - -	*11th March 2016*
Coming into operation	*1st August 2016*

The Department of Enterprise, Trade and Investment [F1], being the Department concerned [F2], makes the following Regulations in exercise of the powers conferred by Articles 17(1), (2), (3), (5) [F3], 43(2) and (3), 54(1) and (2) and 55(2) of, and paragraphs 1(1) and (2), 5 to 11, 13, 14(1), 15, 17, 19 and 20 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978 [F4] ("the 1978 Order").

The Regulations give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) [F5] of the 1978 Order after the Executive has carried out consultations in accordance with Article 46(3) [F6].

It appears to the Department that the modifications to the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001 [F7] and to the REACH Enforcement Regulations 2008 [F8] in Schedule 6 are expedient for the purposes of Article 54(1) of the 1978 Order. It also appears to the Department not to be appropriate to consult bodies in respect of those modifications for the purposes of Article 54(5) of the 1978 Order.

Annotations:

F1 Formerly the Department of Economic Development; *see*S.I. 1999/283 (N.I. 1), **Article 3(5)**; that Department was formerly the Department of Manpower Services; *see*S.I. 1982/846 (N.I. 11), **Article 3**

F2 *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)

F3 Article 17 shall be read with S.I. 1992/1728 (N.I. 17), **Articles 3(2)** and 4(2)

F4 S.I. 1978/1039 (N.I. 9): the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), **Articles 3(1)** and 4(1). Article 55(2) was amended by S.I. 1998/2795 (N.I. 18), **Article 6(1)** and Schedule 1, paragraph 19

F5 Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), **Article 4**

F6 Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), **Article 6(1)** and Schedule 1, paragraphs 8 and 18

F7 S.R. 2001 No. 348, as amended by S.R. 2003 No. 152, S.R. 2003 No. 454 and S.R. 2007 No. 291

F8 S.I. 2008/2852, as amended by S.I. 2009/716, S.R. 2009 No. 238, **S.I.** 2010/1513, S.I. 2011/3058, **S.I.** 2012/632, S.I. 2013/119, **S.I.** 2013/755, S.I. 2013/1948, **S.I.** 2013/2919, S.I. 2014/469, **S.I.** 2014/1638, S.R. 2014 No. 224, **S.I.** 2014/2882, S.I. 2014/3248, **S.I.** 2015/21, S.I. 2015/51, S.R. 2015 No. 223, **S.I.** 2015/1682 and S.R. 2015 No. 339; revoked in part by S.I. 2009/716 and S.R. 2009 No. 238

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Construction (Design and Management) Regulations (Northern Ireland) 2016 and shall come into operation on 1st August 2016.

Interpretation

2.—(1) In these Regulations—

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978;

"the 2007 Regulations" means the Construction (Design and Management) Regulations (Northern Ireland) 2007 [F9];

"the Management Regulations" means the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 [F10];

"business" means a trade, business or other undertaking (whether for profit or not);

"client" means any person for whom a project is carried out;

"construction phase" means the period of time beginning when construction work in a project starts and ending when construction work in that project is completed;

"construction phase plan" means a plan drawn up under regulations 12 or 15;

"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 the site which is set aside for purposes other than 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), de-commissioning, demolition or dismantling of a structure;

(b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation (but not pre-construction archaeological investigations), and the clearance or preparation of the site or structure for use or occupation at its conclusion;

(c) the assembly on site of prefabricated elements to form a structure or the disassembly on site of the 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;

(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 preparatory activities carried out at a place where such exploration or extraction is carried out;

"contractor" means any person (including a non-domestic client) who, in the course or furtherance of a business, carries out, manages or controls construction work;

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

"designated area" means any area designated by Order under section 1(7) of the Continental Shelf Act 1964 [F11] and "within a designated area" includes over and under it;

"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 their 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 their control;

"domestic client" means a client for whom a project is being carried out which is not in the course or furtherance of a business of that client;

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

"the Executive" means the Health and Safety Executive for Northern Ireland;

"the general principles of prevention" means the general principles of prevention specified in Schedule 1 to the Management Regulations;

"health and safety file" means a file prepared under regulation 12(5);

"inspector for the Executive" means an inspector within the meaning given in Article 2(2) of the 1978 Order;

"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 information in the client's possession or which is reasonably obtainable by or on behalf of the client, which is relevant to the construction work and is of an appropriate level of detail and proportionate to the risks involved, including—

(a) information about—

  (i) the project;

  (ii) planning and management of the project;

  (iii) health and safety hazards, including design and construction hazards and how they will be addressed; and

(b) information in any existing health and safety file;

"pre-construction phase" means any period of time during which design or preparatory work is carried out for a project and may continue during the construction phase;

"principal contractor" means the contractor appointed under regulation 5(1)(b) to perform the specified duties in regulations 12 to 14;

"principal designer" means the designer appointed under regulation 5(1)(a) to perform the specified duties in regulations 11 and 12;

"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 rules which are drawn up for a particular construction site and are necessary for health or safety purposes;

"structure" means—

(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 pipeline, 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 and fixed plant;

(b) any structure similar to anything specified in paragraph (a);

(c) 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 part of a structure;

"territorial sea" means the territorial sea of the United Kingdom adjacent to Northern Ireland and "within the territorial sea" includes on, over and under it;

"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);

"working day" means any day on which construction work takes place; and

"workplace" means a workplace within the meaning of regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993 [F12] other than a construction site.

(2) Any reference in these Regulations to a plan, rule, document, report or copy includes a copy or electronic version which is—

(a) capable of being retrieved or reproduced when required; and

(b) secure from loss or unauthorised interference.

Annotations:

F9 S.R. 2007 No. 291, as amended by S.R. 2012 No. 179

F10 S.R. 2000 No. 388, as amended by S.R. 2001 No. 348, S.R. 2003 No. 454, S.R. 2006 No. 255, S.R. 2011 No. 350 and S.R. 2015 No. 265: revoked in part by S.R. 2007 No. 291

F11 1964 c. 29; section 1 was amended by the Oil and Gas (Enterprise) Act 1982 (1982 c. 23), **Schedule 3**, paragraph 1 and by the Energy Act 2011 (c. 16), **section 103**

F12 S.R. 1993 No. 37, **regulation 2(1)** was amended by S.R. 1995 No. 378, **regulation 11(2)**, S.R. 2003 No. 423, **regulation 6(a)** and (b) and S.R. 2006 No. 205, **regulation 42(2)** and Schedule 2, Part 2; there are other amendments not relevant to these Regulations

Application within the territorial sea or a designated area

3. Within the territorial sea or a designated area these Regulations shall apply only to and in relation to the premises and activities to which paragraphs 7 and 9(1)(a) of Schedule 1 apply.

PART 2

CLIENT DUTIES

Client duties in relation to managing projects

4.—(1) A client shall make suitable arrangements for managing a project, including the allocation of sufficient time and other resources.

(2) Arrangements are suitable if they ensure that—

(a) the construction work can be carried out, so far as is reasonably practicable, without risks to the health or safety of any person affected by the project; and

(b) the facilities required by Schedule 3 are provided in respect of any person carrying out construction work.

(3) A client shall ensure that these arrangements are maintained and reviewed throughout the project.

(4) A client shall provide pre-construction information as soon as practicable to every designer and contractor appointed, or being considered for appointment, to the project.

(5) A client shall ensure that—

(a) before the construction phase begins, a construction phase plan is drawn up by the contractor if there is only one contractor, or by the principal contractor; and

(b) the principal designer prepares a health and safety file for the project, which—

(i) complies with the requirements of regulation 12(5);

(ii) is revised from time to time as appropriate to incorporate any relevant new information; and

(iii) is kept available for inspection by any person who may need it to comply with any relevant legal requirements.

(6) A client shall take reasonable steps to ensure that—

(a) the principal designer complies with any other principal designer duties in regulations 11 and 12; and

(b) the principal contractor complies with any other principal contractor duties in regulations 12 to 14.

(7) If a client disposes of the client's interest in the structure, the client complies with the duty in paragraph (5)(b)(iii) by providing the health and safety file to the person who acquires the client's interest in the structure and ensuring that that person is aware of the nature and purpose of the file.

(8) Where there is more than one client in relation to a project—

(a) one or more of the clients may agree in writing to be treated for the purposes of these Regulations as the only client or clients; and

(b) except for the duties specified in sub-paragraph (c) only the client or clients agreed in paragraph (a) are subject to the duties owed by a client under these Regulations;

(c) the duties in the following provisions are owed by all clients—

(i) regulation 8(4); and

(ii) paragraph (4) and regulation 8(6) to the extent that those duties relate to information in the possession of the client.