STATUTORY RULES OF NORTHERN IRELAND

2007 No. 291

HEALTH AND SAFETY

The Construction (Design and Management) Regulations (Northern Ireland) 2007

Made - - - -	*31st May 2007*
Coming into operation	*9th July 2007*

The Department of Enterprise, Trade and Investment(**1**), being the Department concerned(**2**), makes the following Regulations in exercise of the powers conferred by Articles 17(1), (2), (3), (5) and (6)(**3**), 43(2) and (3) and 55(2) of, and paragraphs 1(1) and (2), 5, 6, 7(1), 8 to 11, 13, 14(1), 15, 17, 19 and 20 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**4**) ("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)(**5**) of the 1978 Order after the Executive had carried out consultations in accordance with Article 46(3)(**6**) of that Order.

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Construction (Design and Management) Regulations (Northern Ireland) 2007 and shall come into operation on 9th July 2007.

Interpretation

2.—(1) In these Regulations—

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

"client" means a person who in the course or furtherance of a business—

(**1**) Formerly the Department of Economic Development; *see* S.I. 1982/846 (N.I. 11), Article 3 and S.I. 1999/283 (N.I. 1), Article 3(5)
(**2**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**3**) Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3(2) and 4(2)
(**4**) 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)
(**5**) Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(**6**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18(c)

(a) seeks or accepts the services of another which may be used in the carrying out of a project for him; or

(b) carries out a project himself;

"CDM co-ordinator" means the person appointed as the CDM co-ordinator under regulation 14(1);

"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 it which is set aside for purposes other than construction work;

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

"construction phase plan" means a document recording the health and safety arrangements, site rules and any special measures for 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, 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 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; and

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

"contractor" means any person (including a client, principal contractor or other person referred to in these Regulations) who, in the course or furtherance of a business, carries out or manages construction work;

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

"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—

(f) prepares or modifies a design; or

(g) arranges for or instructs any person under his 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 his control;

"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 of Health and Safety at Work Regulations (Northern Ireland) 2000(**7**);

"health and safety file"—

(a) means the record referred to in regulation 20(2)(e); and

(b) includes a health and safety file prepared under regulation 14(d) of the Construction (Design and Management) Regulations (Northern Ireland) 1995(**8**);

"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 the information described in regulation 10 and, where the project is notifiable, regulation 15;

"principal contractor" means the person appointed as the principal contractor under regulation 14(2);

"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 the rules described in regulation 22(1)(d);

"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 pipe-line, 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, fixed plant and any structure similar to the foregoing; or

(b) 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 a 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);

"workplace" means a workplace within the meaning of regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993(**9**) other than a construction site; and

"writing" includes writing which is kept in electronic form and which can be printed.

(**7**) S.R. 2000 No. 388, as amended by S.R. 2001 No. 348, S.R. 2003 No. 454 and S.R. 2006 No. 255

(**8**) S.R. 1995 No. 209, as amended by S.R. 1997 No. 229, S.R. 1999 No. 150, S.R. 2000 No. 388 and S.R. 2001 No. 142

(**9**) S.R. 1993 No. 37, as amended by S.R. 1995 No. 378, S.R. 1996 No. 510, S.R. 2003 No. 423 and S.R. 2006 No. 205; revoked in part by S.R. 2003 No. 152 and S.R. 2005 No. 279

(2) Any reference in these Regulations to a plan, rules, document, report or copy includes a plan, rules, document, report or copy which is kept in a form—

(a) in which it is capable of being reproduced as a printed copy when required; and

(b) which is secure from loss or unauthorised interference.

(3) For the purposes of these Regulations, a project is notifiable if the construction phase is likely to involve more than—

(a) 30 days; or

(b) 500 person days,

of construction work.

Application

3.—(1) Within the territorial sea these Regulations shall apply only to and in relation to the premises and activities to which paragraph 6(1)(a) of Schedule 1 applies.

(2) Subject to paragraphs (3) to (5), these Regulations shall apply to and in relation to construction work.

(3) The duties under Part 3 shall apply only where a project—

(a) is notifiable; and

(b) is carried out for or on behalf of, or by, a client.

(4) Part 4 shall apply only in relation to a construction site.

(5) Regulations 9(1)(b), 13(7), 22(1)(c), and Schedule 3 shall apply only in relation to persons at work who are carrying out construction work.

PART 2

GENERAL MANAGEMENT DUTIES APPLYING TO CONSTRUCTION PROJECTS

Competence

4.—(1) No person on whom these Regulations place a duty shall—

(a) appoint or engage a CDM co-ordinator, designer, principal contractor or contractor unless he has taken reasonable steps to ensure that the person to be appointed or engaged is competent;

(b) accept such an appointment or engagement unless he is competent;

(c) arrange for or instruct a worker to carry out or manage design or construction work unless the worker is—

(i) competent, or

(ii) under the supervision of a competent person.

(2) Any reference in this regulation to a person being competent shall extend only to his being competent to—

(a) perform any requirement; and

(b) avoid contravening any prohibition,

imposed on him by or under any of the relevant statutory provisions.

Co-operation

5.—(1) Every person concerned in a project on whom a duty is placed by these Regulations, including paragraph (2), shall—

(a) seek the co-operation of any other person concerned in any project involving construction work at the same or an adjoining site so far as is necessary to enable himself to perform any duty or function under these Regulations; and

(b) co-operate with any other person concerned in any project involving construction work at the same or an adjoining site so far as is necessary to enable that person to perform any duty or function under these Regulations.

(2) Every person concerned in a project who is working under the control of another person shall report to that person anything which he is aware is likely to endanger the health or safety of himself or others.

Co-ordination

6. All persons concerned in a project on whom a duty is placed by these Regulations shall co-ordinate their activities with one another in a manner which ensures, so far as is reasonably practicable, the health and safety of persons—

(a) carrying out the construction work; and

(b) affected by the construction work.

General principles of prevention

7.—(1) Every person on whom a duty is placed by these Regulations in relation to the design, planning and preparation of a project shall take account of the general principles of prevention in the performance of those duties during all the stages of the project.

(2) Every person on whom a duty is placed by these Regulations in relation to the construction phase of a project shall ensure so far as is reasonably practicable that the general principles of prevention are applied in the carrying out of the construction work.

Election by clients

8. Where there is more than one client in relation to a project, if one or more of such clients elect in writing to be treated for the purposes of these Regulations as the only client or clients, no other client who has agreed in writing to such election shall be subject after such election and consent to any duty owed by a client under these Regulations save the duties in regulations 5(1)(b), 10(1), 15 and 17(1) insofar as those duties relate to information in his possession.

Client's duty in relation to arrangements for managing projects

9.—(1) Every client shall take reasonable steps to ensure that the arrangements made for managing the project (including the allocation of sufficient time and other resources) by persons with a duty under these Regulations (including the client himself) are suitable to ensure that—

(a) the construction work can be carried out so far as is reasonably practicable without risk to the health and safety of any person;

(b) the requirements of Schedule 3 are complied with in respect of any person carrying out the construction work; and