1995 No. 209

HEALTH AND SAFETY

Construction (Design and Management) Regulations (Northern Ireland) 1995

Made . . . . . *23rd May 1995*

Coming into operation . . *26th June 1995*

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The Department of Economic Development, being the Department concerned(**a**), in exercise of the powers conferred on it by Articles 17(1), (2), (3), (4) and (6), 20(2), 43(2) and 55(2) of, and paragraphs 1(1), 5(1), 13, 14(1), 15, 19 and 20 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling it in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to it to be appropriate, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Construction (Design and Management) Regulations (Northern Ireland) 1995 and shall come into operation on 26th June 1995.

Interpretation

2.—(1) In these Regulations—

"agent" in relation to any client means any person who acts as agent for a client in connection with the carrying on by the person of a trade, business or other undertaking (whether for profit or not);

"cleaning work" means the cleaning of any window or any transparent or translucent wall, ceiling or roof in or on a structure where such cleaning involves a risk of a person falling more than 2 metres;

"client" means any person for whom a project is carried out, whether it is carried out by another person or is carried out in-house;

"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 work" means the carrying out of any building, civil engineering or engineering construction work and includes any of the following—

(*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 substances classified as corrosive or toxic for the purposes of regulation 5 of the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995.

(*b*) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and laying or installing the foundations of the structure,

(*c*) the assembly of prefabricated elements to form a structure or the disassembly of prefabricated elements which, immediately before such disassembly, formed a structure (**c**)), de-commissioning, demolition or dismantling of a structure,

(**a**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**b**) S.I. 1978/1039 (N.I. 9)
(**c**) S.R. 1995 No. 47

(*d*) the removal of a structure or part 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 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 who carries on a trade, business or other undertaking (whether for profit or not) in connection with which he—

(*a*) undertakes to or does carry out or manage construction work,

(*b*) arranges for any person at work under his control (including, where he is an employer, any employee of his) to carry out or manage construction work;

"the Department" means the Department of Economic Development;

"design" in relation to any structure includes drawing, design details, specification and bill of quantities (including specification of articles or substances) in relation to the structure;

"designer" means any person who carries on a trade, business or other undertaking in connection with which he—

(*a*) prepares a design, or

(*b*) arranges for any person under his control (including, where he is an employer, any employee of his) to prepare a design,

relating to a structure or part of a structure;

"developer" shall be construed in accordance with regulation 5(1);

"domestic client" means a client for whom a project is carried out not being a project carried out in connection with the carrying on by the client of a trade, business or other undertaking (whether for profit or not);

"health and safety file" means a file, or other record in permanent form, containing the information required by virtue of regulation 14(*d*);

"health and safety plan" means the plan prepared by virtue of regulation 15;

"planning supervisor" means any person for the time being appointed under regulation 6(1)(*a*);

"principal contractor" means any person for the time being appointed under regulation 6(1)(*b*);

"project" means a project which includes or is intended to include construction work;

"structure" means—

(*a*) any building, steel or reinforced concrete structure (not being a building), railway line or siding, tramway line, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipe-line (whatever, in either case, it contains or is intended to contain), 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 any other 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, or

(*c*) any fixed plant in respect of work which is installation, commissioning, de-commissioning or dismantling and where any such work involves a risk of a person falling more than 2 metres.

(2) In determining whether any person arranges for a person (in this paragraph called "the relevant person") to prepare a design or to carry out or manage construction work regard shall be had to the following, namely—

(*a*) a person does arrange for the relevant person to do a thing where—

(i) he specifies in or in connection with any arrangement with a third person that the relevant person shall do that thing (whether by nominating the relevant person as a subcontractor to the third person or otherwise), or

(ii) being an employer, it is done by any of his employees in-house;

(*b*) a person does not arrange for the relevant person to do a thing where—

(i) being a self-employed person, he does it himself or, being in partnership it is done by any of his partners, or

(ii) being an employer, it is done by any of his employees otherwise than in-house, or

(iii) having arranged for a third person to do the thing, he does not object to the third person arranging for it to be done by the relevant person,

and the expressions "arrange" and "arranges" shall be construed accordingly.

(3) For the purposes of these Regulations—

(*a*) a project is carried out in-house where an employer arranges for the project to be carried out by an employee of his who acts, or by a group of employees who act, in either case, in relation to such a project as a separate part of the undertaking of the employer distinct from the part for which the project is carried out; and

(*b*) construction work is carried out or managed in-house where an employer arranges for the construction work to be carried out or managed by an employee of his who acts or by a group of employees who act, in either case, in relation to such construction work as a

separate part of the undertaking of the employer distinct from the part for which the construction work is carried out or managed; and

(*c*) a design is prepared in-house where an employer arranges for the design to be prepared by an employee of his who acts, or by a group of employees who act, in either case, in relation to such design as a separate part of the undertaking of the employer distinct from the part for which the design is prepared.

(4) For the purposes of these Regulations, a project is notifiable if the construction phase—

(*a*) will be longer than 30 days; or

(*b*) will involve more than 500 person days of construction work,

and the expression "notifiable" shall be construed accordingly.

(5) Any reference in these Regulations to a person being reasonably satisfied—

(*a*) as to another person's competence is a reference to that person being satisfied after the taking of such steps as it is reasonable for that person to take (including making reasonable enquiries or seeking advice where necessary) to satisfy himself as to such competence; and

(*b*) as to whether another person has allocated or will allocate adequate resources is a reference to that person being satisfied after the taking of such steps as it is reasonable for that person to take (including making reasonable enquiries or seeking advice where necessary)—

(i) to ascertain what resources have been or are intended to be so allocated; and

(ii) to establish whether the resources so allocated or intended to be allocated are adequate.

Application of regulations

3.—(1) Subject to the following paragraphs these Regulations shall apply to and in relation to construction work.

(2) Subject to paragraph (3), regulations 4 to 12 and 14 to 19 shall not apply to or in relation to construction work included in a project where the client has reasonable grounds for believing that—

(*a*) the project is not notifiable; and

(*b*) the largest number of persons at work at any one time carrying out construction work included in the project will be or, as the case may be, is, less than 5.

(3) These Regulations shall apply to and in relation to construction work which is the demolition or dismantling of a structure notwithstanding paragraph (2).

(4) These Regulations shall not apply to or in relation to construction work in respect of which the district council is the enforcing authority.

(5) Regulation 14(*b*) shall not apply to projects in which no more than one designer is involved.