

**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*

**CONTENTS**

**PART 1**

**INTRODUCTION**

1. Citation and commencement
2. Interpretation
3. Application

**PART 2**

**GENERAL MANAGEMENT DUTIES APPLYING TO CONSTRUCTION PROJECTS**

4. Competence
5. Co-operation
6. Co-ordination
7. General principles of prevention
8. Election by clients
9. Client's duty in relation to arrangements for managing projects
10. Client's duty in relation to information
11. Duties of designers
12. Designs prepared or modified outside Northern Ireland
13. Duties of contractors

**PART 3**

**ADDITIONAL DUTIES WHERE PROJECT IS NOTIFIABLE**

14. Appointments by the client where a project is notifiable
15. Client's duty in relation to information where a project is notifiable
16. The client's duty in relation to the start of the construction phase where a project is notifiable
17. The client's duty in relation to the health and safety file
18. Additional duties of designers
19. Additional duties of contractors

20. General duties of CDM co-ordinators
21. Notification of project by the CDM co-ordinator
22. Duties of the principal contractor
23. The principal contractor's duty in relation to the construction phase plan
24. The principal contractor's duty in relation to co-operation and consultation with workers

#### PART 4

#### DUTIES RELATING TO HEALTH AND SAFETY ON CONSTRUCTION SITES

25. Application of regulations 26 to 43
26. Safe places of work
27. Good order and site security
28. Stability of structures
29. Demolition or dismantling
30. Excavations
31. Cofferdams and caissons
32. Reports of inspections
33. Energy distribution installations
34. Prevention of drowning
35. Traffic routes
36. Vehicles
37. Prevention of risk from fire etc.
38. Emergency procedures
39. Emergency routes and exits
40. Fire detection and fire-fighting
41. Fresh air
42. Temperature and weather protection
43. Lighting

#### PART 5

#### GENERAL

44. Civil liability
45. Enforcement in respect of fire
46. Transitional provisions
47. Revocations and amendments

---

SCHEDULE 1 — PREMISES AND ACTIVITIES WITHIN THE TERRITORIAL SEA

SCHEDULE 2 — PARTICULARS TO BE NOTIFIED TO THE EXECUTIVE

SCHEDULE 3 — WELFARE FACILITIES

SCHEDULE 4 — PARTICULARS TO BE INCLUDED IN A REPORT OF INSPECTION

SCHEDULE 5 — REVOCATIONS

SCHEDULE 6 — AMENDMENTS

The Department of Enterprise, Trade and Investment(a), being the Department concerned(b), makes the following Regulations in exercise of the powers conferred by Articles 17(1), (2), (3), (5) and (6)(c), 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(d) (“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)(e) of the 1978 Order after the Executive had carried out consultations in accordance with Article 46(3)(f) 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—

(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;

---

(a) 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)

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

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

(d) 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)

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

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

- (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(a);

“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(b);

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

(b) 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

- (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(a) other than a construction site; and

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

(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.

---

(a) 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

## 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
- (c) any structure designed for use as a workplace has been designed taking account of the provisions of the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993(a) which relate to the design of, and materials used in, the structure.

(2) The client shall take reasonable steps to ensure that the arrangements referred to in paragraph (1) are maintained and reviewed throughout the project.

### **Client's duty in relation to information**

10.—(1) Every client shall ensure that—

- (a) every person designing the structure; and
- (b) every contractor who has been or may be appointed by the client,

is promptly provided with pre-construction information in accordance with paragraph (2).

(2) The pre-construction information shall consist of all the information in the client's possession (or which is reasonably obtainable), including—

- (a) any information about or affecting the site or the construction work;
- (b) any information concerning the proposed use of the structure as a workplace;
- (c) the minimum amount of time before the construction phase which will be allowed to the contractors appointed by the client for planning and preparation for construction work; and
- (d) any information in any existing health and safety file,

which is relevant to the person to whom the client provides it for the purposes specified in paragraph (3).

(3) The purposes referred to in paragraph (2) are—

- (a) to ensure so far as is reasonably practicable the health and safety of persons—
  - (i) engaged in the construction work,
  - (ii) liable to be affected by the way in which it is carried out, and
  - (iii) who will use the structure as a workplace; and
- (b) without prejudice to sub-paragraph (a), to assist the persons to whom information is provided under this regulation—
  - (i) to perform their duties under these Regulations, and

---

(a) 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

- (ii) to determine the resources referred to in regulation 9(1) which they are to allocate for managing the project.

### **Duties of designers**

**11.**—(1) No designer shall commence work in relation to a project unless any client for the project is aware of his duties under these Regulations.

(2) The duties in paragraphs (3) and (4) shall be performed so far as is reasonably practicable, taking due account of other relevant design considerations.

(3) Every designer shall in preparing or modifying a design which may be used in construction work avoid foreseeable risks to the health and safety of any person—

- (a) carrying out construction work;
- (b) liable to be affected by such construction work;
- (c) cleaning any window or any transparent or translucent wall, ceiling or roof in or on a structure;
- (d) maintaining the permanent fixtures and fittings of a structure; or
- (e) using a structure designed as a workplace.

(4) In discharging the duty in paragraph (3), the designer shall—

- (a) eliminate hazards which may give rise to risks; and
- (b) reduce risks from any remaining hazards,

and in so doing shall give collective measures priority over individual measures.

(5) In designing any structure for use as a workplace the designer shall take account of the provisions of the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993 which relate to the design of, and materials used in, the structure.

(6) The designer shall take all reasonable steps to provide with his design sufficient information about aspects of the design of the structure or its construction or maintenance as will adequately assist—

- (a) clients;
- (b) other designers; and
- (c) contractors,

to comply with their duties under these Regulations.

### **Designs prepared or modified outside Northern Ireland**

**12.** Where a design is prepared or modified outside Northern Ireland for use in construction work to which these Regulations apply—

- (a) the person who commissions it, if he is established within Northern Ireland; or
- (b) if that person is not so established, any client for the project,

shall ensure that regulation 11 is complied with.

### **Duties of contractors**

**13.**—(1) No contractor shall carry out construction work in relation to a project unless any client for the project is aware of his duties under these Regulations.

(2) Every contractor shall plan, manage and monitor construction work carried out by him or under his control in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health and safety.

(3) Every contractor shall ensure that any contractor whom he appoints or engages in his turn in connection with a project is informed of the minimum amount of time which will be allowed to him for planning and preparation before he begins construction work.

(4) Every contractor shall provide every worker carrying out the construction work under his control with any information and training which he needs for the particular work to be carried out safely and without risk to health, including—

- (a) suitable site induction, where not provided by any principal contractor;
- (b) information on the risks to their health and safety—
  - (i) identified by his risk assessment under regulation 3 of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000(a), or
  - (ii) arising out of the conduct by another contractor of his undertaking and of which he is or ought reasonably to be aware;
- (c) the measures which have been identified by the contractor in consequence of the risk assessment as the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions;
- (d) any site rules;
- (e) the procedures to be followed in the event of serious and imminent danger to such workers; and
- (f) the identity of the persons nominated to implement those procedures.

(5) Without prejudice to paragraph (4), every contractor shall in the case of any of his employees provide those employees with any health and safety training which he is required to provide to them in respect of the construction work by virtue of regulation 13(2)(b) of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000.

(6) No contractor shall begin work on a construction site unless reasonable steps have been taken to prevent access by unauthorised persons to that site.

(7) Every contractor shall ensure, so far as is reasonably practicable, that the requirements of Schedule 3 are complied with throughout the construction phase in respect of any person at work who is under his control.

## PART 3

### ADDITIONAL DUTIES WHERE PROJECT IS NOTIFIABLE

#### **Appointments by the client where a project is notifiable**

14.—(1) Where a project is notifiable, the client shall appoint a person (“the CDM co-ordinator”) to perform the duties specified in regulations 20 and 21 as soon as is practicable after initial design work or other preparation for construction work has begun.

(2) After appointing a CDM co-ordinator under paragraph (1), the client shall appoint a person (“the principal contractor”) to perform the duties specified in regulations 22 to 24 as soon as is practicable after the client knows enough about the project to be able to select a suitable person for such appointment.

(3) The client shall ensure that appointments under paragraphs (1) and (2) are changed or renewed as necessary to ensure that there is at all times until the end of the construction phase a CDM co-ordinator and principal contractor.

(4) The client shall—

- (a) be deemed for the purposes of these Regulations, save paragraphs (1) and (2) and regulations 18(1) and 19(1)(a) to have been appointed as the CDM co-ordinator or principal contractor, or both, for any period for which no person (including himself) has been so appointed; and

---

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

- (b) accordingly be subject to the duties imposed by regulations 20 and 21 on a CDM co-ordinator or, as the case may be, the duties imposed by regulations 22 to 24 on a principal contractor, or both sets of duties.
- (5) Any reference in this regulation to appointment is to appointment in writing.

**Client's duty in relation to information where a project is notifiable**

**15.** Where the project is notifiable, the client shall promptly provide the CDM co-ordinator with pre-construction information consisting of—

- (a) all the information described in regulation 10(2) to be provided to any person in pursuance of regulation 10(1);
- (b) any further information as described in regulation 10(2) in the client's possession (or which is reasonably obtainable) which is relevant to the CDM co-ordinator for the purposes specified in regulation 10(3), including the minimum amount of time before the construction phase which will be allowed to the principal contractor for planning and preparation for construction work.

**The client's duty in relation to the start of the construction phase where a project is notifiable**

**16.** Where the project is notifiable, the client shall ensure that the construction phase does not start unless—

- (a) the principal contractor has prepared a construction phase plan which complies with regulations 23(1)(a) and 23(2); and
- (b) he is satisfied that the requirements of regulation 22(1)(c) (provision of welfare facilities) will be complied with during the construction phase.

**The client's duty in relation to the health and safety file**

**17.—(1)** The client shall ensure that the CDM co-ordinator is provided with all the health and safety information in the client's possession (or which is reasonably obtainable) relating to the project which is likely to be needed for inclusion in the health and safety file, including information specified in regulation 4(9)(c) of the Control of Asbestos Regulations (Northern Ireland) 2007(a).

(2) Where a single health and safety file relates to more than one project, site or structure, or where it includes other related information, the client shall ensure that the information relating to each site or structure can be easily identified.

(3) The client shall take reasonable steps to ensure that after the construction phase the information in the health and safety file—

- (a) is kept available for inspection by any person who may need it to comply with the relevant statutory provisions; and
- (b) is revised as often as may be appropriate to incorporate any relevant new information.

(4) It shall be sufficient compliance with paragraph (3)(a) by a client who disposes of his entire interest in the structure if he delivers the health and safety file to the person who acquires his interest in it and ensures that he is aware of the nature and purpose of the file.

**Additional duties of designers**

**18.—(1)** Where a project is notifiable, no designer shall commence work (other than initial design work) in relation to the project unless a CDM co-ordinator has been appointed for the project.

---

(a) S.R. 2007 No. 31, revoked in part by S.R. 2007 No. 62

(2) The designer shall take all reasonable steps to provide with his design sufficient information about aspects of the design of the structure or its construction or maintenance as will adequately assist the CDM co-ordinator to comply with his duties under these Regulations, including his duties in relation to the health and safety file.

#### **Additional duties of contractors**

**19.**—(1) Where a project is notifiable, no contractor shall carry out construction work in relation to the project unless—

- (a) he has been provided with the names of the CDM co-ordinator and principal contractor;
- (b) he has been given access to such part of the construction phase plan as is relevant to the work to be performed by him, containing sufficient detail in relation to such work; and
- (c) notice of the project has been given to the Executive under regulation 21.

(2) Every contractor shall—

- (a) promptly provide the principal contractor with any information (including any relevant part of any risk assessment in his possession or control) which—
  - (i) might affect the health or safety of any person carrying out the construction work or of any person who may be affected by it,
  - (ii) might justify a review of the construction phase plan, or
  - (iii) has been identified for inclusion in the health and safety file in pursuance of regulation 22(1)(j);
- (b) promptly identify any contractor whom he appoints or engages in his turn in connection with the project to the principal contractor;
- (c) comply with—
  - (i) any directions of the principal contractor given to him under regulation 22(1)(e), and
  - (ii) any site rules;
- (d) promptly provide the principal contractor with the information in relation to any death, injury, condition or dangerous occurrence which the contractor is required to notify or report under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1997(a).

(3) Every contractor shall—

- (a) in complying with his duty under regulation 13(2) take all reasonable steps to ensure that the construction work is carried out in accordance with the construction phase plan;
- (b) take appropriate action to ensure health and safety where it is not possible to comply with the construction phase plan in any particular case; and
- (c) notify the principal contractor of any significant finding which requires the construction phase plan to be altered or added to.

#### **General duties of CDM co-ordinators**

**20.**—(1) The CDM co-ordinator shall—

- (a) give suitable and sufficient advice and assistance to the client on undertaking the measures he needs to take to comply with these Regulations during the project (including, in particular, assisting the client in complying with regulations 9 and 16);
- (b) ensure that suitable arrangements are made and implemented for the co-ordination of health and safety measures during planning and preparation for the construction phase, including facilitating—

---

(a) S.R. 1997 No. 455, as amended by S.R. 1998 No. 375, S.R. 1999 No. 150, S.R. 2000 No. 375, S.R. 2001 No. 436, S.R. 2004 No. 196, S.R. 2005 No. 45, S.R. 2006 No. 173, S.R. 2006 No. 205, S.R. 2006 No. 425 and S.R. 2007 No. 247; revoked in part by S.R. 2006 No. 425

- (i) co-operation and co-ordination between persons concerned in the project in pursuance of regulations 5 and 6, and
    - (ii) the application of the general principles of prevention in pursuance of regulation 7; and
  - (c) liaise with the principal contractor regarding—
    - (i) the contents of the health and safety file,
    - (ii) the information which the principal contractor needs to prepare the construction phase plan,
    - (iii) any design development which may affect planning and management of the construction work.
- (2) Without prejudice to paragraph (1) the CDM co-ordinator shall—
- (a) take all reasonable steps to identify and collect the pre-construction information;
  - (b) promptly provide in a convenient form to—
    - (i) every person designing the structure, and
    - (ii) every contractor who has been or may be appointed by the client (including the principal contractor),
 such of the pre-construction information in his possession as is relevant to each;
  - (c) take all reasonable steps to ensure that designers comply with their duties under regulations 11 and 18(2);
  - (d) take all reasonable steps to ensure co-operation between designers and the principal contractor during the construction phase in relation to any design or change to a design;
  - (e) prepare, where none exists, and otherwise review and update a record (“the health and safety file”) containing information relating to the project which is likely to be needed during any subsequent construction work to ensure the health and safety of any person, including the information provided in pursuance of regulations 17(1), 18(2) and 22(1)(j); and
  - (f) at the end of the construction phase, pass the health and safety file to the client.

#### **Notification of project by the CDM co-ordinator**

**21.**—(1) The CDM co-ordinator shall as soon as is practicable after his appointment ensure that notice is given to the Executive containing such of the particulars specified in Schedule 2 as are available.

(2) Where any particulars specified in Schedule 2 have not been notified under paragraph (1) because a principal contractor had not yet been appointed, notice of such particulars shall be given to the Executive as soon as is practicable after the appointment of the principal contractor, and in any event before the start of the construction work.

(3) Any notice under paragraph (1) or (2) shall be signed by or on behalf of the client or, if sent by electronic means, shall otherwise show that he has approved it.

#### **Duties of the principal contractor**

**22.**—(1) The principal contractor for a project shall—

- (a) plan, manage and monitor the construction phase in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health or safety, including facilitating—
  - (i) co-operation and co-ordination between persons concerned in the project in pursuance of regulations 5 and 6, and
  - (ii) the application of the general principles of prevention in pursuance of regulation 7;

- (b) liaise with the CDM co-ordinator in performing his duties in regulation 20(2)(d) during the construction phase in relation to any design or change to a design;
  - (c) ensure that welfare facilities sufficient to comply with the requirements of Schedule 3 are provided throughout the construction phase;
  - (d) where necessary for health and safety, draw up rules which are appropriate to the construction site and the activities on it (referred to in these Regulations as “site rules”);
  - (e) give reasonable directions to any contractor so far as is necessary to enable the principal contractor to comply with his duties under these Regulations;
  - (f) ensure that every contractor is informed of the minimum amount of time which will be allowed to him for planning and preparation before he begins construction work;
  - (g) where necessary, consult a contractor before finalising such part of the construction phase plan as is relevant to the work to be performed by him;
  - (h) ensure that every contractor is given, before he begins construction work and in sufficient time to enable him to prepare properly for that work, access to such part of the construction phase plan as is relevant to the work to be performed by him;
  - (i) ensure that every contractor is given, before he begins construction work and in sufficient time to enable him to prepare properly for that work, such further information as he needs—
    - (i) to comply punctually with the duty under regulation 13(7), and
    - (ii) to carry out the work to be performed by him without risk, so far as is reasonably practicable, to the health and safety of any person;
  - (j) identify to each contractor the information relating to the contractor’s activity which is likely to be required by the CDM co-ordinator for inclusion in the health and safety file in pursuance of regulation 20(2)(e) and ensure that such information is promptly provided to the CDM co-ordinator;
  - (k) ensure that the particulars required to be in the notice given under regulation 21 are displayed in a readable condition in a position where they can be read by any worker engaged in the construction work; and
  - (l) take reasonable steps to prevent access by unauthorised persons to the construction site.
- (2) The principal contractor shall take all reasonable steps to ensure that every worker carrying out the construction work is provided with—
- (a) a suitable site induction;
  - (b) the information and training referred to in regulation 13(4) by a contractor on whom a duty is placed by that regulation; and
  - (c) any further information and training which he needs for the particular work to be carried out without undue risk to health or safety.

**The principal contractor’s duty in relation to the construction phase plan**

23.—(1) The principal contractor shall—

- (a) before the start of the construction phase, prepare a construction phase plan which is sufficient to ensure that the construction phase is planned, managed and monitored in a way which enables the construction work to be started so far as is reasonably practicable without risk to health or safety, paying adequate regard to the information provided by the designer under regulations 11(6) and 18(2) and the pre-construction information provided under regulation 20(2)(b);
- (b) from time to time and as often as may be appropriate throughout the project update, review, revise and refine the construction phase plan so that it continues to be sufficient to ensure that the construction phase is planned, managed and monitored in a way which enables the construction work to be carried out so far as is reasonably practicable without risk to health or safety; and

- (c) arrange for the construction phase plan to be implemented in a way which will ensure so far as is reasonably practicable the health and safety of all persons carrying out the construction work and all persons who may be affected by the work.

(2) The principal contractor shall take all reasonable steps to ensure that the construction phase plan identifies the risks to health and safety arising from the construction work (including the risks specific to the particular type of construction work concerned) and includes suitable and sufficient measures to address such risks, including any site rules.

### **The principal contractor's duty in relation to co-operation and consultation with workers**

24. The principal contractor shall—

- (a) make and maintain arrangements which will enable him and the workers engaged in the construction work to co-operate effectively in promoting and developing measures to ensure the health, safety and welfare of the workers and in checking the effectiveness of such measures;
- (b) consult those workers or their representatives in good time on matters connected with the project which may affect their health, safety or welfare, so far as they or their representatives are not so consulted on those matters by any employer of theirs;
- (c) ensure that such workers or their representatives can inspect and take copies of any information which the principal contractor has, or which these Regulations require to be provided to him, which relates to the planning and management of the project, or which otherwise may affect their health, safety or welfare at the site, except any information—
  - (i) the disclosure of which would be against the interests of national security,
  - (ii) which he could not disclose without contravening a prohibition imposed by or under an enactment,
  - (iii) relating specifically to an individual, unless he has consented to its being disclosed,
  - (iv) the disclosure of which would, for reasons other than its effect on health, safety or welfare at work, cause substantial injury to his undertaking or, where the information was supplied to him by some other person, to the undertaking of that other person, or
  - (v) obtained by him for the purpose of bringing, prosecuting or defending any legal proceedings.

## **PART 4**

### **DUTIES RELATING TO HEALTH AND SAFETY ON CONSTRUCTION SITES**

#### **Application of regulations 26 to 43**

25.—(1) Every contractor carrying out construction work shall comply with the requirements of regulations 26 to 43 insofar as they affect him or any person carrying out construction work under his control or relate to matters within his control.

(2) Every person (other than a contractor carrying out construction work) who controls the way in which any construction work is carried out by a person at work shall comply with the requirements of regulations 26 to 43 insofar as they relate to matters which are within his control.

(3) Every person at work on construction work under the control of another person shall report to that person any defect which he is aware may endanger the health and safety of himself or another person.

(4) Paragraphs (1) and (2) shall not apply to regulation 32, which expressly says on whom the duties in that regulation are imposed.

### **Safe places of work**

26.—(1) There shall, so far as is reasonably practicable, be suitable and sufficient safe access to and egress from every place of work and to and from every other place provided for the use of any person while at work, which access and egress shall be properly maintained.

(2) Every place of work shall, so far as is reasonably practicable, be made and kept safe for, and without risks to health to, any person at work there.

(3) Suitable and sufficient steps shall be taken to ensure, so far as is reasonably practicable, that no person uses access or egress, or gains access to any place, which does not comply with the requirements of paragraph (1) or (2) respectively.

(4) Every place of work shall, so far as is reasonably practicable, have sufficient working space and be so arranged that it is suitable for any person who is working or who is likely to work there, taking account of any necessary work equipment present.

### **Good order and site security**

27.—(1) Every part of a construction site shall, so far as is reasonably practicable, be kept in good order and every part of a construction site which is used as a place of work shall be kept in a reasonable state of cleanliness.

(2) Where necessary in the interests of health and safety, a construction site shall, so far as is reasonably practicable and in accordance with the level of risk posed, either—

(a) have its perimeter identified by suitable signs and be so arranged that its extent is readily identifiable; or

(b) be fenced off,

or both.

(3) No timber or other material with projecting nails (or similar sharp object) shall—

(a) be used in any work; or

(b) be allowed to remain in any place,

if the nails (or similar sharp object) may be a source of danger to any person.

### **Stability of structures**

28.—(1) All practicable steps shall be taken, where necessary to prevent danger to any person, to ensure that any new or existing structure or any part of such structure which may become unstable or in a temporary state of weakness or instability due to the carrying out of construction work does not collapse.

(2) Any buttress, temporary support or temporary structure must be of such design and so installed and maintained as to withstand any foreseeable loads which may be imposed on it, and must only be used for the purposes for which it is so designed, installed and maintained.

(3) No part of a structure shall be so loaded as to render it unsafe to any person.

### **Demolition or dismantling**

29.—(1) The demolition or dismantling of a structure, or part of a structure, shall be planned and carried out in such a manner as to prevent danger, or, where it is not practicable to prevent it, to reduce danger to as low a level as is reasonably practicable.

(2) The arrangements for carrying out such demolition or dismantling shall be recorded in writing before the demolition or dismantling work begins.

### **Excavations**

30.—(1) All practicable steps shall be taken, where necessary to prevent danger to any person, including, where necessary, the provision of supports or battering, to ensure that—

- (a) any excavation or part of an excavation does not collapse;
- (b) no material from a side or roof of, or adjacent to, any excavation is dislodged or falls; and
- (c) no person is buried or trapped in an excavation by material which is dislodged or falls.

(2) Suitable and sufficient steps shall be taken to prevent any person, work equipment, or any accumulation of material from falling into any excavation.

(3) Without prejudice to paragraphs (1) and (2), suitable and sufficient steps shall be taken, where necessary, to prevent any part of an excavation or ground adjacent to it from being overloaded by work equipment or material.

(4) Construction work shall not be carried out in an excavation where any supports or battering have been provided pursuant to paragraph (1) unless—

- (a) the excavation and any work equipment and materials which affect its safety, have been inspected by a competent person—
  - (i) at the start of the shift in which the work is to be carried out,
  - (ii) after any event likely to have affected the strength or stability of the excavation, and
  - (iii) after any material unintentionally falls or is dislodged; and
- (b) the person who carried out the inspection is satisfied that the work can be carried out there safely.

(5) Where the person who carried out the inspection has under regulation 32(1)(a) informed the person on whose behalf the inspection was carried out of any matter about which he is not satisfied, work shall not be carried out in the excavation until the matters have been satisfactorily remedied.

### **Cofferdams and caissons**

**31.**—(1) Every cofferdam or caisson shall be—

- (a) of suitable design and construction;
- (b) appropriately equipped so that workers can gain shelter or escape if water or materials enter it; and
- (c) properly maintained.

(2) A cofferdam or caisson shall be used to carry out construction work only if—

- (a) the cofferdam or caisson, and any work equipment and materials which affect its safety, have been inspected by a competent person—
  - (i) at the start of the shift in which the work is to be carried out, and
  - (ii) after any event likely to have affected the strength or stability of the cofferdam or caisson; and
- (b) the person who carried out the inspection is satisfied that the work can be safely carried out there.

(3) Where the person who carried out the inspection has under regulation 32(1)(a) informed the person on whose behalf the inspection was carried out of any matter about which he is not satisfied, work shall not be carried out in the cofferdam or caisson until the matters have been satisfactorily remedied.

### **Reports of inspections**

**32.**—(1) Subject to paragraph (5), the person who carries out an inspection under regulation 30 or 31 shall, before the end of the shift within which the inspection is completed—

- (a) where he is not satisfied that the construction work can be carried out safely at the place inspected, inform the person for whom the inspection was carried out of any matters about which he is not satisfied; and
- (b) prepare a report which shall include the particulars set out in Schedule 4.

(2) A person who prepares a report under paragraph (1) shall, within 24 hours of completing the inspection to which the report relates, provide the report or a copy of it to the person on whose behalf the inspection was carried out.

(3) Where the person owing a duty under paragraph (1) or (2) is an employee or works under the control of another, his employer or, as the case may be, the person under whose control he works shall ensure that he performs the duty.

(4) The person on whose behalf the inspection was carried out shall keep the report or a copy of it available for inspection by an inspector appointed under Article 21 of the Health and Safety at Work (Northern Ireland) Order 1978(a)—

- (a) at the site of the place of work in respect of which the inspection was carried out until that work is completed; and
- (b) after that for 3 months,

and send to the inspector such extracts from or copies of it as the inspector may from time to time require.

(5) Nothing in this regulation shall require as regards an inspection carried out on a place of work for the purposes of regulations 30(4)(a)(i) and 31(2)(a)(i), the preparation of more than one report within a period of 7 days.

### **Energy distribution installations**

**33.**—(1) Where necessary to prevent danger, energy distribution installations shall be suitably located, checked and clearly indicated.

(2) Where there is a risk from electric power cables—

- (a) they shall be directed away from the area of risk; or
- (b) the power shall be isolated and, where necessary, earthed; or
- (c) if it is not reasonably practicable to comply with paragraph (a) or (b), suitable warning notices and—
  - (i) barriers suitable for excluding work equipment which is not needed, or
  - (ii) where vehicles need to pass beneath the cables, suspended protections, or
  - (iii) in either case, measures providing an equivalent level of safety,shall be provided or (in the case of measures) taken.

(3) No construction work which is liable to create a risk to health or safety from an underground service, or from damage to or disturbance of it, shall be carried out unless suitable and sufficient steps (including any steps required by this regulation) have been taken to prevent such risk, so far as is reasonably practicable.

### **Prevention of drowning**

**34.**—(1) Where in the course of construction work any person is liable to fall into water or other liquid with a risk of drowning, suitable and sufficient steps shall be taken—

- (a) to prevent, so far as is reasonably practicable, such person from so falling;
- (b) to minimise the risk of drowning in the event of such a fall; and
- (c) to ensure that suitable rescue equipment is provided, maintained and, when necessary, used so that such person may be promptly rescued in the event of such a fall.

(2) Suitable and sufficient steps shall be taken to ensure the safe transport of any person conveyed by water to or from any place of work.

(3) Any vessel used to convey any person by water to or from a place of work shall not be overcrowded or overloaded.

---

(a) S.I. 1978/1039 (N.I. 9)

## **Traffic routes**

**35.**—(1) Every construction site shall be organised in such a way that, so far as is reasonably practicable, pedestrians and vehicles can move safely and without risks to health.

(2) Traffic routes shall be suitable for the persons or vehicles using them, sufficient in number, in suitable positions and of sufficient size.

(3) A traffic route shall not satisfy paragraph (2) unless suitable and sufficient steps are taken to ensure that—

- (a) pedestrians or vehicles may use it without causing danger to the health or safety of persons near it;
- (b) any door or gate for pedestrians which leads onto a traffic route is sufficiently separated from that traffic route to enable pedestrians to see any approaching vehicle or plant from a place of safety;
- (c) there is sufficient separation between vehicles and pedestrians to ensure safety or, where this is not reasonably practicable—
  - (i) there are provided other means for the protection of pedestrians, and
  - (ii) there are effective arrangements for warning any person liable to be crushed or trapped by any vehicle of its approach;
- (d) any loading bay has at least one exit point for the exclusive use of pedestrians; and
- (e) where it is unsafe for pedestrians to use a gate intended primarily for vehicles, one or more doors for pedestrians is provided in the immediate vicinity of the gate, is clearly marked and is kept free from obstruction.

(4) Every traffic route shall be—

- (a) indicated by suitable signs where necessary for reasons of health or safety;
- (b) regularly checked; and
- (c) properly maintained.

(5) No vehicle shall be driven on a traffic route unless, so far as is reasonably practicable, that traffic route is free from obstruction and permits sufficient clearance.

## **Vehicles**

**36.**—(1) Suitable and sufficient steps shall be taken to prevent or control the unintended movement of any vehicle.

(2) Suitable and sufficient steps shall be taken to ensure that, where any person may be endangered by the movement of any vehicle, the person having effective control of the vehicle shall give warning to any person who is liable to be at risk from the movement of the vehicle.

(3) Any vehicle being used for the purposes of construction work shall when being driven, operated or towed—

- (a) be driven, operated or towed in such a manner as is safe in the circumstances; and
- (b) be loaded in such a way that it can be driven, operated or towed safely.

(4) No person shall ride or be required or permitted to ride on any vehicle being used for the purposes of construction work otherwise than in a safe place thereon provided for that purpose.

(5) No person shall remain or be required or permitted to remain on any vehicle during the loading or unloading of any loose material unless a safe place of work is provided and maintained for such person.

(6) Suitable and sufficient measures shall be taken so as to prevent any vehicle from falling into any excavation or pit, or into water, or overrunning the edge of any embankment or earthwork.

### **Prevention of risk from fire etc.**

37. Suitable and sufficient steps shall be taken to prevent, so far as is reasonably practicable, the risk of injury to any person during the carrying out of construction work arising from—

- (a) fire or explosion;
- (b) flooding; or
- (c) any substance liable to cause asphyxiation.

### **Emergency procedures**

38.—(1) Where necessary in the interests of the health and safety of any person on a construction site, there shall be prepared and, where necessary, implemented suitable and sufficient arrangements for dealing with any foreseeable emergency, which arrangements shall include procedures for any necessary evacuation of the site or any part thereof.

(2) In making arrangements under paragraph (1), account shall be taken of—

- (a) the type of work for which the construction site is being used;
- (b) the characteristics and size of the construction site and the number and location of places of work on that site;
- (c) the work equipment being used;
- (d) the number of persons likely to be present on the site at any one time; and
- (e) the physical and chemical properties of any substances or materials on or likely to be on the site.

(3) Where arrangements are prepared pursuant to paragraph (1), suitable and sufficient steps shall be taken to ensure that—

- (a) every person to whom the arrangements extend is familiar with those arrangements; and
- (b) the arrangements are tested by being put into effect at suitable intervals.

### **Emergency routes and exits**

39.—(1) Where necessary in the interests of the health and safety of any person on a construction site, a sufficient number of suitable emergency routes and exits shall be provided to enable any person to reach a place of safety quickly in the event of danger.

(2) An emergency route or exit provided pursuant to paragraph (1) shall lead as directly as possible to an identified safe area.

(3) Any emergency route or exit provided in accordance with paragraph (1), and any traffic route giving access thereto, shall be kept clear and free from obstruction and, where necessary, provided with emergency lighting so that such emergency route or exit may be used at any time.

(4) In making provision under paragraph (1), account shall be taken of the matters in regulation 38(2).

(5) All emergency routes or exits shall be indicated by suitable signs.

### **Fire detection and fire-fighting**

40.—(1) Where necessary in the interests of the health and safety of any person at work on a construction site there shall be provided suitable and sufficient—

- (a) fire-fighting equipment; and
- (b) fire detection and alarm systems,

which shall be suitably located.

(2) In making provision under paragraph (1), account shall be taken of the matters in regulation 38(2).

(3) Any fire-fighting equipment and any fire detection and alarm system provided under paragraph (1) shall be examined and tested at suitable intervals and properly maintained.

(4) Any fire-fighting equipment which is not designed to come into use automatically shall be easily accessible.

(5) Every person at work on a construction site shall, so far as is reasonably practicable, be instructed in the correct use of any fire-fighting equipment which it may be necessary for him to use.

(6) Where a work activity may give rise to a particular risk of fire, a person shall not carry out such work unless he is suitably instructed.

(7) Fire-fighting equipment shall be indicated by suitable signs.

### **Fresh air**

**41.**—(1) Suitable and sufficient steps shall be taken to ensure, so far as is reasonably practicable, that every place of work or approach thereto has sufficient fresh or purified air to ensure that the place or approach is safe and without risks to health.

(2) Any plant used for the purpose of complying with paragraph (1) shall, where necessary for reasons of health or safety, include an effective device to give visible or audible warning of any failure of the plant.

### **Temperature and weather protection**

**42.**—(1) Suitable and sufficient steps shall be taken to ensure, so far as is reasonably practicable, that during working hours the temperature at any place indoors is reasonable having regard to the purpose for which that place is used.

(2) Every place of work outdoors shall, where necessary to ensure the health and safety of persons at work there, be so arranged that, so far as is reasonably practicable and having regard to the purpose for which that place is used and any protective clothing or work equipment provided for the use of any person at work there, it provides protection from adverse weather.

### **Lighting**

**43.**—(1) Every place of work and approach thereto and every traffic route shall be provided with suitable and sufficient lighting, which shall be, so far as is reasonably practicable, by natural light.

(2) The colour of any artificial lighting provided shall not adversely affect or change the perception of any sign or signal provided for the purposes of health and safety.

(3) Without prejudice to paragraph (1), suitable and sufficient secondary lighting shall be provided in any place where there would be a risk to the health or safety of any person in the event of failure of primary artificial lighting.

## **PART 5**

### **GENERAL**

### **Civil liability**

**44.** Breach of a duty imposed by the preceding provisions of these Regulations, other than those imposed by regulations 9(1)(b), 13(6) and (7), 16, 22(1)(c) and (1), 25(1), (2) and (4), 26 to 43 and Schedule 3, shall not confer a right of action in any civil proceedings insofar as that duty applies for the protection of a person who is not an employee of the person on whom the duty is placed.

## **Enforcement in respect of fire**

**45.**—(1) Subject to paragraph (2), the Northern Ireland Fire and Rescue Service Board, within the meaning of the Fire and Rescue Services (Northern Ireland) Order 2006(a), shall be the enforcing authority in respect of a construction site which is contained within, or forms part of, premises which are occupied by persons other than those carrying out the construction work or any activity arising from such work as regards regulations 38 and 39, in so far as those regulations relate to fire, and regulation 40.

(2) Paragraph (1) shall not apply in respect of any premises of a description specified in Part 1 of Schedule 1 to the Fire Certificates (Special Premises) Regulations (Northern Ireland) 1991(b).

## **Transitional provisions**

**46.**—(1) These Regulations shall apply in relation to a project which began before their coming into operation, with the following modifications.

(2) Subject to paragraph (3), where the time specified in paragraph (1) or (2) of regulation 14 for the appointment of the CDM co-ordinator or the principal contractor occurred before the coming into operation of these Regulations, the client shall appoint the CDM co-ordinator or, as the case may be, the principal contractor, as soon as is practicable.

(3) Where a client appoints any planning supervisor or principal contractor already appointed under regulation 6 of the Construction (Design and Management) Regulations 1995(c) (“the 1995 Regulations”) as the CDM co-ordinator or the principal contractor respectively pursuant to paragraph (2), regulation 4(1) shall have effect so that the client shall within 12 months of the coming into operation of these Regulations take reasonable steps to ensure that any CDM co-ordinator or principal contractor so appointed is competent within the meaning of regulation 4(2).

(4) Any planning supervisor or principal contractor appointed under regulation 6 of the 1995 Regulations shall, in the absence of an express appointment by the client, be treated for the purposes of paragraph (2) as having been appointed as the CDM co-ordinator, or the principal contractor, respectively.

(5) Any person treated as having been appointed as the CDM co-ordinator or the principal contractor pursuant to paragraph (4) shall within 12 months of the coming into operation of these Regulations take such steps as are necessary to ensure that he is competent within the meaning of regulation 4(2).

(6) Any agent appointed by a client under regulation 4 of the 1995 Regulations before the coming into operation of these Regulations may, if requested by the client and if he himself consents, continue to act as the agent of that client and shall be subject to such requirements and prohibitions as are placed by these Regulations on that client, unless or until such time as such appointment is revoked by that client, or the project comes to an end, or 5 years elapse from the coming into operation of these Regulations, whichever arises first.

(7) Where notice has been given under regulation 7 of the 1995 Regulations, the references in regulations 19(1)(c) and 22(1)(k) to notice under regulation 21 shall be construed as being to notice under that regulation.

## **Revocations and amendments**

**47.**—(1) The statutory provisions referred to in column 1 of Schedule 5 shall be revoked to the extent specified in the corresponding entry in column 3 of that Schedule.

(2) The statutory provisions referred to in column 1 of Schedule 6 shall be amended to the extent specified in the corresponding entry in column 3 of that Schedule.

---

(a) S.R. 2006 No. 1254 (N.I. 9)

(b) S.R. 1991 No. 446, as amended by S.R. 1999 No. 150, S.R. 2001 No. 436 and S.R. 2003 No. 152

(c) 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

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 31st May 2007.



*M. Bohill*

A senior officer of the Department of Enterprise, Trade and Investment

## PREMISES AND ACTIVITIES WITHIN THE TERRITORIAL SEA

**Interpretation**

1.—(1) In this Schedule—

“activity” includes a diving project;

“designated area” means any area designated by Order under section 1(7) of the Continental Shelf Act 1964<sup>(a)</sup> and “within a designated area” includes over and under it;

“diving project” has the meaning assigned to it by regulation 2(1) of the Diving at Work Regulations (Northern Ireland) 2005<sup>(b)</sup> save that it includes an activity in which a person takes part as a diver wearing an atmospheric pressure suit and without breathing in air or other gas at a pressure greater than atmospheric pressure;

“energy structure” means a fixed or floating structure, other than a vessel, for producing energy from wind or water;

“offshore installation” shall be construed in accordance with paragraph 2(2) and (3);

“supplementary unit” means a fixed or floating structure, other than a vessel, for providing energy, information or substances to an offshore installation;

“stand-by vessel” means a vessel which is ready to give assistance in the event of an emergency on or near an offshore installation;

“vessel” includes a hovercraft and any floating structure which is capable of being staffed.

(2) For the purposes of this Schedule, any structures and devices on top of a well shall be treated as forming part of the well.

(3) Any reference in this Schedule to premises and activities includes a reference to any person, article or substance on those premises or engaged in, or, as the case may be, used or for use in connection with any such activity, but does not include a reference to an aircraft which is airborne.

**Offshore installations**

2.—(1) This paragraph shall apply to and in relation to—

(a) any offshore installation and any activity on it;

(b) any activity in connection with an offshore installation, or any activity which is immediately preparatory thereto, whether carried on from the installation itself, on or from a vessel or in any other manner, other than—

(i) transporting, towing or navigating the installation; and

(ii) any activity in or from a vessel being used as a stand-by vessel;

(c) a diving project involving—

(i) the survey and preparation of the sea bed for an offshore installation;

(ii) the survey and restoration of the sea bed consequent on the removal of an offshore installation.

(2) Subject to sub-paragraph (3), in this paragraph, “offshore installation” means a structure which is, or is to be, or has been, used while standing or stationed in water, or on the foreshore or other land intermittently covered with water—

---

(a) 1964 c. 29; section 1 was amended by the Oil and Gas (Enterprise) Act 1982 (1982 c. 23), Schedule 3, paragraph 1

(b) S.R. 2005 No. 45, as amended by S.R. 2007 No. 247

- (a) for the exploitation, or exploration with a view to exploitation, of mineral resources by means of a well;
- (b) for the storage of gas in or under the shore or bed of any water or the recovery of gas so stored;
- (c) for the conveyance of things by means of a pipe; or
- (d) mainly for the provision of accommodation for persons who work on or from a structure falling within any of the provisions of this sub-paragraph,

together with any supplementary unit which is ordinarily connected to it, and all the connections.

(3) Any reference in sub-paragraph (2) to a structure or unit does not include—

- (a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes;
- (b) a well;
- (c) a structure which has ceased to be used for any of the purposes specified in sub-paragraph (2) and has since been used for a purpose not so specified;
- (d) a mobile structure which has been taken out of use and is not yet being moved with a view to its being used for any of the purposes specified in sub-paragraph (2); and
- (e) any part of a pipeline.

### **Wells**

3.—(1) Subject to sub-paragraph (2), this paragraph applies to and in relation to—

- (a) a well and any activity in connection with it; and
- (b) an activity which is immediately preparatory to any activity in head (a).

(2) Sub-paragraph (1) includes keeping a vessel on station for the purpose of working on a well but otherwise does not include navigation or an activity connected with navigation.

### **Pipelines**

4.—(1) This paragraph applies to and in relation to—

- (a) any pipeline;
- (b) any pipeline works;
- (c) the following activities in connection with pipeline works—
  - (i) the loading, unloading, fuelling or provisioning of a vessel;
  - (ii) the loading, unloading, fuelling, repair and maintenance of an aircraft on a vessel, being in either case a vessel which is engaged in pipeline works.

(2) In this paragraph—

“pipeline” means a pipe or system of pipes for the conveyance of any thing, together with—

- (a) any apparatus for inducing or facilitating the flow of any thing through, or through part of, the pipe or system;
- (b) any apparatus for treating or cooling any thing which is to flow through, or through part of, the pipe or system;
- (c) valves, valve chambers and similar works which are annexed to, or incorporated in the course of, the pipe or system;
- (d) apparatus for supplying energy for the operation of any such apparatus or works as are mentioned in heads (a) to (c);
- (e) apparatus for the transmission of information for the operation of the pipe or system;
- (f) apparatus for the cathodic protection of the pipe or system; and
- (g) a structure used or to be used solely for the support of a part of the pipe or system;

but not including a pipeline of which no initial or terminal point is situated in the United Kingdom, within the territorial sea adjacent to the United Kingdom, or within a designated area;

“pipeline works” means—

- (a) assembling or placing a pipeline or length of pipeline including the provision of internal or external protection for it;
- (b) inspecting, testing, maintaining, adjusting, repairing, altering or renewing a pipeline or length of pipeline;
- (c) changing the position of or dismantling or removing a pipeline or length of pipeline;
- (d) opening the bed of the sea for the purposes of the works mentioned in heads (a) to (c), and tunnelling or boring for those purposes;
- (e) any activities incidental to the activities described in heads (a) to (d);
- (f) a diving project in connection with any of the works mentioned in heads (a) to (e) or for the purpose of determining whether a place is suitable as part of the site of a proposed pipeline and the carrying out of surveying operations for settling the route of a proposed pipeline.

### **Mines**

**5.**—(1) This paragraph applies to and in relation to a mine within the territorial sea or extending beyond it, and any activity in connection with it, while it is being worked.

(2) In this paragraph “mine” has the same meaning as in the Mines Act (Northern Ireland) 1969(a).

### **Other activities**

**6.**—(1) Subject to paragraph (2), this paragraph applies to and in relation to—

- (a) the construction, reconstruction, alteration, repair, maintenance, cleaning, use, operation, demolition and dismantling of any building, energy structure or other structure, not being in any case a vessel, or any preparation for any such activity;
- (b) the transfer of people or goods between a vessel or aircraft and a structure (including a building) mentioned in head (a);
- (c) the loading, unloading, fuelling or provisioning of a vessel;
- (d) a diving project;
- (e) the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of a vessel except when carried out by the master or any officer or member of the crew of that vessel;
- (f) the maintaining on a station of a vessel which would be an offshore installation were it not a structure to which paragraph 2(3)(d) applies;
- (g) the operation of a cable for transmitting electricity from an energy structure to shore;
- (h) the transfer of people or goods between a vessel or aircraft and a structure mentioned in head (f).

(2) This paragraph shall not apply—

- (a) to a case where paragraph 2, 3, 4 or 5 applies; or
- (b) to vessels which are registered outside the United Kingdom and are on passage through the territorial sea.

---

(a) 1969 c. 6 (N.I.)

**PARTICULARS TO BE NOTIFIED TO THE EXECUTIVE**

- 1.** Date of forwarding.
- 2.** Exact address of the construction site.
- 3.** The name of the District Council where the site is located.
- 4.** A brief description of the project and the construction work which it includes.
- 5.** Contact details of the client (name, address, telephone number and any e-mail address).
- 6.** Contact details of the CDM co-ordinator (name, address, telephone number and any e-mail address).
- 7.** Contact details of the principal contractor (name, address, telephone number and any e-mail address).
- 8.** Date planned for the start of the construction phase.
- 9.** The time allowed by the client to the principal contractor referred to in regulation 15(b) for planning and preparation for construction work.
- 10.** Planned duration of the construction phase.
- 11.** Estimated maximum number of people at work on the construction site.
- 12.** Planned number of contractors on the construction site.
- 13.** Name and address of any contractor already appointed.
- 14.** Name and address of any designer already engaged.
- 15.** A declaration signed by or on behalf of the client that he is aware of his duties under these Regulations.

## SCHEDULE 3 Regulations 9(1)(b), 13(7) and 22(1)(c)

### WELFARE FACILITIES

#### **Sanitary conveniences**

1. Suitable and sufficient sanitary conveniences shall be provided or made available at readily accessible places. So far as is reasonably practicable, rooms containing sanitary conveniences shall be adequately ventilated and lit.

2. So far as is reasonably practicable, sanitary conveniences and the rooms containing them shall be kept in a clean and orderly condition.

3. Separate rooms containing sanitary conveniences shall be provided for men and women, except where and so far as each convenience is in a separate room, the door of which is capable of being secured from the inside.

#### **Washing facilities**

4. Suitable and sufficient washing facilities, including showers if required by the nature of the work or for health reasons, shall so far as is reasonably practicable be provided or made available at readily accessible places.

5. Washing facilities shall be provided—

- (a) in the immediate vicinity of every sanitary convenience, whether or not provided elsewhere; and
- (b) in the vicinity of any changing rooms required by paragraph 14 whether or not provided elsewhere.

6. Washing facilities shall include—

- (a) a supply of clean hot and cold, or warm, water (which shall be running water so far as is reasonably practicable);
- (b) soap or other suitable means of cleaning; and
- (c) towels or other suitable means of drying.

7. Rooms containing washing facilities shall be sufficiently ventilated and lit.

8. Washing facilities and the rooms containing them shall be kept in a clean and orderly condition.

9. Subject to paragraph 10, separate washing facilities shall be provided for men and women, except where and so far as they are provided in a room the door of which is capable of being secured from inside and the facilities in each such room are intended to be used by only one person at a time.

10. Paragraph 9 shall not apply to facilities which are provided for washing hands, forearms and face only.

#### **Drinking water**

11. An adequate supply of wholesome drinking water shall be provided or made available at readily accessible and suitable places.

12. Every supply of drinking water shall be conspicuously marked by an appropriate sign where necessary for reasons of health and safety.

13. Where a supply of drinking water is provided, there shall also be provided a sufficient number of suitable cups or other drinking vessels unless the supply of drinking water is in a jet from which persons can drink easily.

#### **Changing rooms and lockers**

14.—(1) Suitable and sufficient changing rooms shall be provided or made available at readily accessible places if—

- (a) a worker has to wear special clothing for the purposes of his work; and
- (b) he cannot, for reasons of health or propriety, be expected to change elsewhere,

being separate rooms for, or separate use of rooms by, men and women where necessary for reasons of propriety.

(2) Changing rooms shall—

- (a) be provided with seating;
- (b) include, where necessary, facilities to enable a person to dry any such special clothing and his own clothing and personal effects.

(3) Suitable and sufficient facilities shall, where necessary, be provided or made available at readily accessible places to enable persons to lock away—

- (a) any such special clothing which is not taken home;
- (b) their own clothing which is not worn during working hours; and
- (c) their personal effects.

#### **Facilities for rest**

15.—(1) Suitable and sufficient rest rooms or rest areas shall be provided or made available at readily accessible places.

(2) Rest rooms and rest areas shall—

- (a) include suitable arrangements to protect non-smokers from discomfort caused by tobacco smoke;
- (b) be equipped with an adequate number of tables and adequate seating with backs for the number of persons at work likely to use them at any one time;
- (c) where necessary, include suitable facilities for any person at work who is a pregnant woman or nursing mother to rest lying down;
- (d) include suitable arrangements to ensure that meals can be prepared and eaten;
- (e) include the means for boiling water; and
- (f) be maintained at an appropriate temperature.

## SCHEDULE 4

Regulation 32(1)(b)

### PARTICULARS TO BE INCLUDED IN A REPORT OF INSPECTION

1. Name and address of the person on whose behalf the inspection was carried out.
2. Location of the place of work inspected.
3. Description of the place of work or part of that place inspected (including any work equipment and materials).
4. Date and time of the inspection.
5. Details of any matter identified that could give rise to a risk to the health or safety of any person.
6. Details of any action taken as a result of any matter identified in paragraph 5.
7. Details of any further action considered necessary.
8. Name and position of the person making the report.

## SCHEDULE 5

Regulation 47(1)

### REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
Construction (General Provisions) Regulations (Northern Ireland) 1963	S.R. & O. (N.I.) 1963 No. 87	The whole Regulations
Health and Safety Information for Employees Regulations (Northern Ireland) 1991	S.R. 1991 No. 105	Regulations 8(3); Part III of the Schedule
Construction (Design and Management) Regulations (Northern Ireland) 1995	S.R. 1995 No. 209	The whole Regulations
Construction (Health, Safety and Welfare) Regulations (Northern Ireland) 1996	S.R. 1996 No. 510	The whole Regulations
Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999	S.R. 1999 No. 304	In Schedule 3, the entry relating to the Construction (Health, Safety and Welfare) Regulations (Northern Ireland) 1996
Provision and Use of Work Equipment Regulations (Northern Ireland) 1999	S.R. 1999 No. 305	In Schedule 5, the entry relating to the Construction (Health, Safety and Welfare) Regulations (Northern Ireland) 1996
Management of Health and Safety at Work Regulations (Northern Ireland) 2000	S.R. 2000 No. 388	Regulation 27  In Schedule 3, the entry relating to the Construction (Design and Management) Regulations (Northern Ireland) 1995
Construction (Design and Management) (Amendment) Regulations (Northern Ireland) 2001	S.R. 2001 No. 142	The whole Regulations
The Work at Height Regulations (Northern Ireland) 2005	S.R. 2005 No. 279	In Schedule 9, the entry relating to the Construction (Health, Safety and Welfare) Regulations (Northern Ireland) 1996

## SCHEDULE 6

Regulation 47(2)

### AMENDMENTS

#### **Amendment of the Factories Act (Northern Ireland) 1965**

1. In section 176(1) (General interpretation) of the Factories Act (Northern Ireland) 1965(a), for the definition of “building operation” and “work of engineering construction” there shall be substituted the following definition—

““building operation” and “work of engineering construction” mean “construction work” within the meaning assigned to that phrase by regulation 2(1) of the Construction (Design and Management) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 291);”.

#### **Amendment of the Construction (Head Protection) Regulations (Northern Ireland) 1990**

2. For regulation 3(1) of the Construction (Head Protection) Regulations (Northern Ireland) 1990(b) there shall be substituted the following paragraph—

“3.—(1) Subject to paragraph (2) these Regulations shall apply to construction work within the meaning of regulation 2(1) of the Construction (Design and Management) Regulations (Northern Ireland) 2007.”.

#### **Amendment of the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993**

3. For regulation 3(1)(b) of the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993(c) there shall be substituted—

“(b) a workplace which is a construction site within the meaning of the Construction (Design and Management) Regulations Northern Ireland) 2007, and in which the only activity being undertaken is construction work within the meaning of those Regulations, save that—

- (i) regulations 18 and 25A apply to such a workplace,
- (ii) regulations 7(1A), 12, 14, 15, 16, 18, 19 and 26(1) apply to such a workplace which is indoors;”

#### **Amendment of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999**

4.—(1) The Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999(d) shall be amended in accordance with the following paragraphs.

(2) In regulation 2(1) in the definition of “construction work” and “contractor” for “1995” substitute “2007”.

(3) For paragraph 4(a)(i) of Schedule 2 there shall be substituted—

“(i) the project which includes the work is notifiable within the meaning of regulation 2(3) of the Construction (Design and Management) Regulations (Northern Ireland) 2007; or”

---

(a) 1965 c. 20, as amended by S.R. 1996 No. 510

(b) S.R. 1990 No. 424, as amended by S.R. 1993 No. 20, S.R. 1999 No. 150 and S.R. 2005 No. 45

(c) 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

(d) S.R. 1999 No. 90, as amended by S.R. 2000 No. 375, S.R. 2003 No. 33, S.R. 2006 No. 205, S.R. 2006 No. 425 and S.R. 2007 No. 31

### **Amendment of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999**

5. For regulation 6(5)(e) of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(a) there shall be substituted—

“(e) work equipment required to be inspected by regulations 30(4) or 31(2) of the Construction (Design and Management) Regulations (Northern Ireland) 2007.”

### **Amendment of the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001**

6. For regulation 3(5)(a) of the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001(b) there shall be substituted—

“(a) any workplace which is or is on a construction site within the meaning of regulation 2(1) of the Construction (Design and Management) Regulations (Northern Ireland) 2007 and to which those Regulations apply;”.

### **Amendment of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004**

7. In regulation 2(4)(d) of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004(c) for “1995” substitute “2007”.

### **Amendment of the Work in Compressed Air Regulations (Northern Ireland) 2004**

8.—(1) The Work in Compressed Air Regulations (Northern Ireland) 2004(d) shall be amended in accordance with the following paragraphs.

(2) In regulation 2(1), for the definition of the “1996 Regulations” there shall be substituted—

““2007 Regulations” means the Construction (Design and Management) Regulations (Northern Ireland) 2007;”.

(3) For regulation 3(1) there shall be substituted—

“3.—(1) These Regulations shall apply to and in relation to work in compressed air which is construction work within the meaning of the Construction (Design and Management) Regulations (Northern Ireland) 2007, and is carried out in the course of a project which is notifiable within the meaning of regulation 2(3) of those Regulations.”.

(4) In regulation 5(3) for “1995” substitute “2007”.

(5) Regulation 13(2) shall be amended as follows—

(a) in sub-paragraph (a) for “18, 19 and 24(3) of the 1996 Regulations” substitute “38, 39 and 43(3) of the 2007 Regulations”; and

(b) in sub-paragraph (d) for “19(1) of the 1996 Regulations” substitute “38(1) of the 2007 Regulations”.

(6) In regulation 14(1) for “20 of the 1996 Regulations” substitute “40 of the 2007 Regulations”.

(7) In regulation 18(a) for “regulation 21 of the 1996 Regulations” substitute “Schedule 3 of the 2007 Regulations”.

### **Amendment of the Work at Height Regulations (Northern Ireland) 2005**

9. In regulation 2(1) of the Work at Height Regulations (Northern Ireland) 2005(a) for the definition of “construction work” there shall be substituted the following definition—

---

(a) S.R. 1999 No. 305, as amended by S.I. 1999/2001, S.R. 2000 No. 87, S.I. 2001/1701, S.R. 2003 No. 423, S.I. 2004/129, S.R. 2005 No. 279, S.R. 2005 No. 397, S.R. 2006 No. 1 and S.R. 2007 No. 31

(b) S.R. 2001 No. 348, as amended by S.R. 2003 No. 152 and S.R. 2003 No. 454

(c) S.R. 2004 No. 63, as amended by S.R. 2006 No. 205

(d) S.R. 2004 No. 241, as amended by S.R. 2005 No. 45

““construction work” has the meaning assigned to it by regulation 2(1) of the Construction (Design and Management) Regulations (Northern Ireland) 2007;”.

---

(a) S.R. 2005 No. 279, as amended by S.R. 2007 No.135

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations revoke and replace the Construction (Design and Management) Regulations 1995 (S.R. 1995 No. 209) (*Parts 2 and 3*) and revoke and re-enact, with modifications, the Construction (Health, Safety and Welfare) Regulations 1996 (S.R. 1996 No. 510) (*Part 4*). They implement in Northern Ireland the requirements of Directive 92/57/EEC (O.J. No. L245, 26.8.92, p.6) (“the Directive”) on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), except certain requirements which are implemented in the Work at Height Regulations (Northern Ireland) 2005 (S.R. 2005 No. 279). These Regulations do not apply the client’s duties in the Directive to persons who act otherwise than in the course or furtherance of a trade, business, or other undertaking (*regulation 2(1)*). They apply the client’s duties to make appointments and to ensure that a safety and health plan is drawn up only to projects that meet the threshold for notification to the Health and Safety Executive for Northern Ireland (*regulations 14 to 17*).

2. Parts 2 and 3 set out duties in respect of the planning, management and monitoring of health, safety and welfare in construction projects and of the co-ordination of the performance of these duties by dutyholders. Duties applicable to all projects, including duties of clients, designers and contractors, are set out in Part 2. These include a duty on every person working under the control of another to report anything that he is aware is likely to endanger health or safety (*regulation 5(2)*).

3. Part 3 imposes additional duties on clients, designers and contractors (*regulations 14 to 19*) where the project is notifiable, defined as likely to involve more than 30 days or 500 person days of construction work (*regulation 2(3)*). These include the duty of the client to appoint a CDM co-ordinator and a principal contractor (*regulation 14*), whose particular duties are then set out (*regulations 20 to 24*).

4. The changes which Parts 2 and 3 make in comparison with the Construction (Design and Management) Regulations (Northern Ireland) 1995 include the following—

- (a) all dutyholders under the Regulations are to co-operate with any other person at work on the same or any adjoining site in enabling one another to perform their duties (*regulation 5*);
- (b) all dutyholders under the Regulations are to co-ordinate their activities to ensure so far as is reasonably practicable the health and safety of persons carrying out or affected by the construction work (*regulation 6*);
- (c) all dutyholders under the Regulations are to take account of the general principles of prevention in Schedule 1 to the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (S.R. 2000 No. 388) in the performance of their duties and in the carrying out of the construction work (*regulation 7*);
- (d) the client is under a duty to take reasonable steps to ensure that arrangements for managing the project that are suitable to ensure that construction work can be carried out so far as is reasonably practicable without risk to health and safety are made and maintained by dutyholders (*regulation 9*);
- (e) the threshold for notification of a construction project is now also the point at which duties including the making of appointments by the client and the duties of the persons so appointed arise (*regulations 14 to 24*);
- (f) the former appointment of a planning supervisor is now replaced by that of the CDM co-ordinator with enhanced duties, in particular in relation to assisting the client and to the co-ordination of health and safety measures (*regulations 20 and 21*); and
- (g) the former duty of the planning supervisor to prepare a health and safety plan has been replaced by that of the principal contractor to prepare a construction phase plan (*regulation 23*).

5. Part 4 sets out duties applicable to all contractors or to others controlling the way in which construction work is carried out (*regulation 25(1) and (2)*) in respect of measures to be taken to ensure specified aspects of health and safety and to prevent danger from a number of specified hazards.

6. Civil liability is now restricted under these Regulations only in respect of the Part 2 and 3 duties, for which there is civil liability only to employees, except in respect of the duties concerning welfare facilities and to prevent access by any unauthorised person, and of the client's duty concerning the construction phase plan, for which liability is unrestricted (*regulation 44*).

7. In Great Britain the corresponding Regulations are the Construction (Design and Management) Regulations 2007 (S.I. 2007/320). The Great Britain Health and Safety Executive has prepared a full regulatory impact assessment in relation to these Regulations. A copy of that assessment together with a Northern Ireland Supplement prepared by the Health and Safety Executive for Northern Ireland is held at the offices of that Executive at 83 Ladas Drive, Belfast BT6 9FR from where a copy may be obtained on request. A copy of the transposition note in relation to implementation of the Directives set out in paragraph 1 is also available at that office.

8. A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000) or, on conviction on indictment, to a fine.