
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 146

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

PART 1

INTRODUCTION

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

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

“the 2007 Regulations” means the Construction (Design and Management) Regulations (Northern Ireland) 2007⁽¹⁾;

“the Management Regulations” means the Management of Health and Safety at Work Regulations (Northern Ireland) 2000⁽²⁾;

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

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

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

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

“construction site” includes any place where construction work is being carried out or to which the workers have access, but does not include a workplace within the site which is set aside for purposes other than construction work;

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

- (a) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure, or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;
- (b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation (but not pre-construction

⁽¹⁾ S.R. 2007 No. 291, as amended by S.R. 2012 No. 179

⁽²⁾ S.R. 2000 No. 388, as amended by S.R. 2001 No. 348, S.R. 2003 No. 454, S.R. 2006 No. 255, S.R. 2011 No. 350 and S.R. 2015 No. 265: revoked in part by S.R. 2007 No. 291

archaeological investigations), and the clearance or preparation of the site or structure for use or occupation at its conclusion;

- (c) the assembly on site of prefabricated elements to form a structure or the disassembly on site of the prefabricated elements which, immediately before such disassembly, formed a structure;
- (d) the removal of a structure, or of any product or waste resulting from demolition or dismantling of a structure, or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure;
- (e) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

but does not include the exploration for, or extraction of, mineral resources, or preparatory activities carried out at a place where such exploration or extraction is carried out;

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

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

“designated area” means any area designated by Order under section 1(7) of the Continental Shelf Act 1964⁽³⁾ and “within a designated area” includes over and under it;

“designer” means any person (including a client, contractor or other person referred to in these Regulations) who in the course or furtherance of a business—

- (a) prepares or modifies a design; or
- (b) arranges for, or instructs, any person under their control to do so,

relating to a structure, or to a product or mechanical or electrical system intended for a particular structure, and a person is deemed to prepare a design where a design is prepared by a person under their control;

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

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

“the Executive” means the Health and Safety Executive for Northern Ireland;

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

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

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

“loading bay” means any facility for loading or unloading;

“place of work” means any place which is used by any person at work for the purposes of construction work or for the purposes of any activity arising out of or in connection with construction work;

“pre-construction information” means information in the client’s possession or which is reasonably obtainable by or on behalf of the client, which is relevant to the construction work and is of an appropriate level of detail and proportionate to the risks involved, including—

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

- (a) information about—
 - (i) the project;
 - (ii) planning and management of the project;
 - (iii) health and safety hazards, including design and construction hazards and how they will be addressed; and
- (b) information in any existing health and safety file;

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

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

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

“project” means a project which includes or is intended to include construction work and includes all planning, design, management or other work involved in a project until the end of the construction phase;

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

“structure” means—

- (a) any building, timber, masonry, metal or reinforced concrete structure, railway line or siding, tramway line, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipeline, cable, aqueduct, sewer, sewage works, gasholder, road, airfield, sea defence works, river works, drainage works, earthworks, lagoon, dam, wall, caisson, mast, tower, pylon, underground tank, earth retaining structure or structure designed to preserve or alter any natural feature and fixed plant;
- (b) any structure similar to anything specified in paragraph (a);
- (c) any formwork, falsework, scaffold or other structure designed or used to provide support or means of access during construction work,

and any reference to a structure includes part of a structure;

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

“traffic route” means a route for pedestrian traffic or for vehicles and includes any doorway, gateway, loading bay or ramp;

“vehicle” includes any mobile work equipment;

“work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not);

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

“workplace” means a workplace within the meaning of regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993(4) other than a construction site.

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

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

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

- (b) secure from loss or unauthorised interference.

Application within the territorial sea or a designated area

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

PART 2

CLIENT DUTIES

Client duties in relation to managing projects

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

(2) Arrangements are suitable if they ensure that—

- (a) the construction work can be carried out, so far as is reasonably practicable, without risks to the health or safety of any person affected by the project; and
- (b) the facilities required by Schedule 3 are provided in respect of any person carrying out construction work.

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

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

(5) A client shall ensure that—

- (a) before the construction phase begins, a construction phase plan is drawn up by the contractor if there is only one contractor, or by the principal contractor; and
- (b) the principal designer prepares a health and safety file for the project, which—
 - (i) complies with the requirements of regulation 12(5);
 - (ii) is revised from time to time as appropriate to incorporate any relevant new information; and
 - (iii) is kept available for inspection by any person who may need it to comply with any relevant legal requirements.

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

- (a) the principal designer complies with any other principal designer duties in regulations 11 and 12; and
- (b) the principal contractor complies with any other principal contractor duties in regulations 12 to 14.

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

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

- (a) one or more of the clients may agree in writing to be treated for the purposes of these Regulations as the only client or clients; and
- (b) except for the duties specified in sub-paragraph (c) only the client or clients agreed in paragraph (a) are subject to the duties owed by a client under these Regulations;

- (c) the duties in the following provisions are owed by all clients—
 - (i) regulation 8(4); and
 - (ii) paragraph (4) and regulation 8(6) to the extent that those duties relate to information in the possession of the client.

Appointment of the principal designer and the principal contractor

5.—(1) Where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working on a project at any time, the client shall appoint in writing—

- (a) a designer with control over the pre-construction phase as principal designer; and
- (b) a contractor as principal contractor.

(2) The appointments shall be made as soon as practicable, and, in any event, before the construction phase begins.

(3) If the client fails to appoint a principal designer, the client shall fulfil the duties of the principal designer in regulations 11 and 12.

(4) If the client fails to appoint a principal contractor, the client shall fulfil the duties of the principal contractor in regulations 12 to 14.

Notification

6.—(1) A project is notifiable if the construction work on a construction site is scheduled to—

- (a) last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project; or
- (b) exceed 500 person days.

(2) Where a project is notifiable, the client shall give notice in writing to the Executive as soon as is practicable before the construction phase begins.

(3) The notice shall—

- (a) contain the particulars specified in Schedule 2;
- (b) be clearly displayed in the construction site office in a comprehensible form where it can be read by any worker engaged in the construction work; and
- (c) if necessary, be periodically updated.

Application to domestic clients

7.—(1) Where the client is a domestic client the duties in regulations 4(1) to (7) and 6 shall be carried out by—

- (a) the contractor for a project where there is only one contractor;
- (b) the principal contractor for a project where there is more than one contractor; or
- (c) the principal designer where there is written agreement that the principal designer will fulfil those duties.

(2) If a domestic client fails to make appointments required by regulation 5—

- (a) the designer in control of the pre-construction phase of the project is the principal designer;
- (b) the contractor in control of the construction phase of the project is the principal contractor.

(3) Regulation 5(3) and (4) does not apply to a domestic client.

PART 3

HEALTH AND SAFETY DUTIES AND ROLES

General duties

8.—(1) A designer (including a principal designer) or contractor (including a principal contractor) appointed to work on a project shall have the skills, knowledge and experience, and, if they are an organisation, the organisational capability, necessary to fulfil the role that they are appointed to undertake, in a manner that secures the health and safety of any person affected by the project.

(2) A designer or contractor shall not accept an appointment to a project unless they fulfil the conditions in paragraph (1).

(3) A person who is responsible for appointing a designer or contractor to carry out work on a project shall take reasonable steps to satisfy themselves that the designer or contractor fulfils the conditions in paragraph (1).

(4) A person with a duty or function under these Regulations shall cooperate with any other person working on or in relation to a project, at the same or an adjoining construction site, to the extent necessary to enable any person with a duty or function to fulfil that duty or function.

(5) A person working on a project under the control of another shall report to that person anything they are aware of in relation to the project which is likely to endanger their own health or safety or that of others.

(6) Any person who is required by these Regulations to provide information or instruction shall ensure the information or instruction is comprehensible and provided as soon as is practicable.

(7) To the extent that they are applicable to a domestic client, the duties in paragraphs (3), (4) and (6) shall be carried out by the person specified in regulation 7(1).

Duties of designers

9.—(1) A designer shall not commence work in relation to a project unless satisfied that the client is aware of the duties owed by the client under these Regulations.

(2) When preparing or modifying a design the designer shall take into account the general principles of prevention and any pre-construction information to eliminate, so far as is reasonably practicable, foreseeable risks to the health or safety of any person—

- (a) carrying out or liable to be affected by construction work;
- (b) maintaining or cleaning a structure; or
- (c) using a structure designed as a workplace.

(3) If it is not possible to eliminate the risks, the designer shall, so far as is reasonably practicable—

- (a) take steps to reduce or, if that is not possible, control the risks through the subsequent design process;
- (b) provide information about those risks to the principal designer; and
- (c) ensure appropriate information is included in the health and safety file.

(4) A designer shall take all reasonable steps to provide, with the design, sufficient information about the design, construction or maintenance of the structure, to adequately assist the client, other designers and contractors to comply with their duties under these Regulations.

Designs prepared or modified outside Northern Ireland

10.—(1) 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 established within Northern Ireland; or
- (b) if that person is not so established, the client for the project,

shall ensure that regulation 9 is complied with.

(2) This regulation does not apply to a domestic client.

Duties of a principal designer in relation to health and safety at the pre-construction phase

11.—(1) The principal designer shall plan, manage and monitor the pre-construction phase and coordinate matters relating to health and safety during the pre-construction phase to ensure that, so far as is reasonably practicable, the project is carried out without risks to health or safety.

(2) In fulfilling the duty in paragraph (1), and in particular when—

- (a) design, technical and organisational aspects are being decided in order to plan the various items or stages of work which are to take place simultaneously or in succession; and
- (b) estimating the period of time required to complete such work or work stages,

the principal designer shall take into account the general principles of prevention and, where relevant, the content of any construction phase plan and any health and safety file.

(3) In fulfilling the duties in paragraph (1), the principal designer shall identify and eliminate or control, so far as is reasonably practicable, foreseeable risks to the health or safety of any person—

- (a) carrying out or liable to be affected by construction work;
- (b) maintaining or cleaning a structure; or
- (c) using a structure designed as a workplace.

(4) In fulfilling the duties in paragraph (1), the principal designer shall ensure all designers comply with their duties in regulation 9.

(5) In fulfilling the duty to coordinate health and safety matters in paragraph (1), the principal designer shall ensure that all persons working in relation to the pre-construction phase cooperate with the client, the principal designer and each other.

(6) The principal designer shall—

- (a) assist the client in the provision of the pre-construction information required by regulation 4(4); and
- (b) so far as it is within the principal designer's control, provide pre-construction information, promptly and in a convenient form, to every designer and contractor appointed, or being considered for appointment, to the project.

(7) The principal designer shall liaise with the principal contractor for the duration of the principal designer's appointment and share with the principal contractor information relevant to the planning, management and monitoring of the construction phase and the coordination of health and safety matters during the construction phase.

Construction phase plan and health and safety file

12.—(1) During the pre-construction phase, and before setting up a construction site, the principal contractor shall draw up a construction phase plan, or make arrangements for a construction phase plan to be drawn up.

(2) The construction phase plan shall set out the health and safety arrangements and site rules taking account, where necessary, of the industrial activities taking place on the construction site and, where applicable, shall include specific measures concerning work which falls within one or more of the categories set out in Schedule 4.

(3) The principal designer shall assist the principal contractor in preparing the construction phase plan by providing to the principal contractor all information the principal designer holds that is relevant to the construction phase plan including—

- (a) pre-construction information obtained from the client;
- (b) any information obtained from designers under regulation 9(3)(b).

(4) Throughout the project the principal contractor shall ensure that the construction phase plan is appropriately reviewed, updated and revised from time to time so that it continues to be sufficient to ensure that construction work is carried out, so far as is reasonably practicable, without risks to health or safety.

(5) During the pre-construction phase, the principal designer shall prepare a health and safety file appropriate to the characteristics of the project which shall contain information relating to the project which is likely to be needed during any subsequent project to ensure the health and safety of any person.

(6) The principal designer shall ensure that the health and safety file is appropriately reviewed, updated and revised from time to time to take account of the work and any changes that have occurred

(7) During the project, the principal contractor shall provide the principal designer with any information in the principal contractor's possession relevant to the health and safety file, for inclusion in the health and safety file.

(8) If the principal designer's appointment concludes before the end of the project, the principal designer shall pass the health and safety file to the principal contractor.

(9) Where the health and safety file is passed to the principal contractor under paragraph (8), the principal contractor shall ensure that the health and safety file is appropriately reviewed, updated and revised from time to time to take account of the work and any changes that have occurred.

(10) At the end of the project, the principal designer, or where there is no principal designer the principal contractor, shall pass the health and safety file to the client.

Duties of a principal contractor in relation to health and safety at the construction phase

13.—(1) The principal contractor shall plan, manage and monitor the construction phase and coordinate matters relating to health and safety during the construction phase to ensure that, so far as is reasonably practicable, construction work is carried out without risks to health or safety.

(2) In fulfilling the duties in paragraph (1), and in particular when—

- (a) design, technical and organisational aspects are being decided in order to plan the various items or stages of work which are to take place simultaneously or in succession; and
- (b) estimating the period of time required to complete the work or work stages,

the principal contractor shall take into account the general principles of prevention.

(3) The principal contractor shall—

- (a) organise cooperation between contractors (including successive contractors on the same construction site);
- (b) coordinate implementation by the contractors of applicable legal requirements for health and safety; and
- (c) ensure that employers and, if necessary for the protection of workers, self-employed persons—

- (i) apply the general principles of prevention in a consistent manner, and in particular when complying with the provisions of Part 4; and
 - (ii) where required, follow the construction phase plan.
- (4) The principal contractor shall ensure that—
 - (a) a suitable site induction is provided;
 - (b) the necessary steps are taken to prevent access by unauthorised persons to the construction site; and
 - (c) facilities that comply with the requirements of Schedule 3 are provided throughout the construction phase.
- (5) The principal contractor shall liaise with the principal designer for the duration of the principal designer’s appointment and share with the principal designer information relevant to the planning, management and monitoring of the pre-construction phase and the coordination of health and safety matters during the pre-construction phase.

Principal contractor’s duties to consult and engage with workers

- 14.** The principal contractor shall—
- (a) make and maintain arrangements which will enable the principal contractor and workers engaged in construction work to cooperate effectively in developing, promoting and checking the effectiveness of measures to ensure the health, safety and welfare of the workers;
 - (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 have not been similarly consulted by their employer;
 - (c) ensure that those 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 the principal contractor, which relates to the health, safety or welfare of workers at the site, except any information—
 - (i) the disclosure of which would be against the interests of national security;
 - (ii) which the principal contractor could not disclose without contravening a prohibition imposed by or under an enactment;
 - (iii) relating specifically to an individual, unless that individual 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 the principal contractor’s undertaking or, where the information was supplied to the principal contractor by another person, to the undertaking of that other person;
 - (v) obtained by the principal contractor for the purpose of bringing, prosecuting or defending any legal proceedings.

Duties of contractors

- 15.—**(1) A contractor shall not carry out construction work in relation to a project unless satisfied that the client is aware of the duties owed by the client under these Regulations.
- (2) A contractor shall plan, manage and monitor construction work carried out either by the contractor or by workers under the contractor’s control, to ensure that, so far as is reasonably practicable, it is carried out without risks to health and safety.

- (3) Where there is more than one contractor working on a project, a contractor shall comply with—
- (a) any directions given by the principal designer or the principal contractor; and
 - (b) the parts of the construction phase plan that are relevant to that contractor’s work on the project.
- (4) If there is only one contractor working on the project, the contractor shall take account of the general principals of prevention when—
- (a) design, technical and organisational aspects are being decided in order to plan the various items or stages of work which are to take place simultaneously or in succession; and
 - (b) estimating the period of time required to complete the work or work stages.
- (5) If there is only one contractor working on the project, the contractor shall draw up a construction phase plan, or make arrangements for a construction phase plan to be drawn up, as soon as is practicable prior to setting up a construction site.
- (6) The construction phase plan shall fulfil the requirements of regulation 12(2).
- (7) A contractor shall not employ or appoint a person to work on a construction site unless that person has, or is in the process of obtaining, the necessary skills, knowledge, training and experience to carry out the tasks allocated to that person in a manner that secures the health and safety of any person working on the construction site.
- (8) A contractor shall provide each worker under their control with appropriate supervision, instructions and information so that construction work can be carried out, so far as is reasonably practicable, without risks to health and safety.
- (9) The information provided shall include—
- (a) a suitable site induction, where not already provided by the principal contractor;
 - (b) the procedures to be followed in the event of serious and imminent danger to health and safety;
 - (c) information on risks to the health and safety—
 - (i) identified by the risk assessment under regulation 3 of the Management Regulations; or
 - (ii) arising out of the conduct of another contractor’s undertaking and of which the contractor in control of the worker ought reasonably to be aware; and
 - (d) any other information necessary to enable the worker to comply with the relevant statutory provisions.
- (10) A contractor shall not begin work on a construction site unless reasonable steps have been taken to prevent access by unauthorised persons to that site.
- (11) A contractor shall ensure, so far as is reasonably practicable, that the requirements of Schedule 3 are complied with so far as they affect the contractor or any worker under that contractor’s control.

PART 4

GENERAL REQUIREMENTS FOR ALL CONSTRUCTION SITES

Application of Part 4

- 16.—**(1) This Part applies only to a construction site.

(2) A contractor carrying out construction work shall comply with the requirements of this Part so far as they affect the contractor or any worker under the control of the contractor or relate to matters within the contractor's control.

(3) A domestic client who controls the way in which any construction work is carried out by a person at work shall comply with the requirements of this Part so far as they relate to matters within the client's control.

Safe places of construction work

17.—(1) There shall, so far as is reasonably practicable, be suitable and sufficient safe access to and egress from—

- (a) every construction site to every other place provided for the use of any person whilst at work; and
- (b) every place construction work is being carried out to every other place to which workers have access within a construction site.

(2) A construction site shall be, so far as is reasonably practicable, made and kept safe for, and without risks to, the health of a person at work there.

(3) Action shall be taken to ensure, so far as is reasonably practicable, that no person uses access to or egress from or gains access to any construction site which does not comply with the requirements of paragraph (1) or (2).

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

Good order and site security

18.—(1) Each part of a construction site shall, so far as is reasonably practicable, be kept in good order and those parts in which construction work is being carried out 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, comply with either or both of the following—

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

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

- (a) be used in any construction 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

19.—(1) All practicable steps shall be taken, where necessary to prevent danger to any person, to ensure that any new or existing structure does not collapse if, due to the carrying out of construction work, it—

- (a) may become unstable; or
- (b) is in a temporary state of weakness or instability.

(2) Any buttress, temporary support or temporary structure shall—

- (a) be of such design and installed and maintained so as to withstand any foreseeable loads which may be imposed on it; and
- (b) only be used for the purposes for which it was designed and installed and is maintained.
- (3) A structure shall not be so loaded as to render it unsafe to any person.

Demolition or dismantling

20.—(1) The demolition or dismantling 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

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

- (a) no excavation or part of an excavation collapses;
- (b) no material forming the walls 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) 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 in accordance with paragraph (1) unless—

- (a) the excavation and any work equipment and materials which may 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 construction work can be safely carried out there.

(5) Where the person carrying out an inspection informs the person on whose behalf the inspection is carried out of any matter about which they are not satisfied (under regulation 23(1)), construction work shall not be carried out in the excavation until the matter has been satisfactorily remedied.

Cofferdams and caissons

22.—(1) A 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 not be used to carry out construction work unless—

- (a) the cofferdam or caisson and any work equipment and materials which may 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 construction work can be safely carried out there.
- (3) Where the person carrying out an inspection informs the person on whose behalf the inspection is carried out of any matter about which they are not satisfied (under regulation 23(1)), construction work shall not be carried out in the cofferdam or caisson until the matter has been satisfactorily remedied.

Reports of inspections

23.—(1) Where a person who carries out an inspection under regulation 21 or 22 is not satisfied that construction work can be carried out safely at the place inspected, that person shall—

- (a) inform the person on whose behalf the inspection was carried out, before the end of the shift within which the inspection is completed, of the matters that could give rise to a risk to the safety of any person;
 - (b) prepare a report, which shall include—
 - (i) the name and address of the person on whose behalf the inspection was carried out;
 - (ii) the location of the place of construction work inspected;
 - (iii) a description of the place of construction work or part of that place inspected (including any work equipment and materials);
 - (iv) the date and time of the inspection;
 - (v) details of any matter identified that could give rise to a risk to the safety of any person;
 - (vi) details of any action taken as a result of any matter identified in sub-paragraph (v);
 - (vii) details of any further action considered necessary; and
 - (viii) the name and position of the person making the report; and
 - (c) provide the report, or a copy of it, to the person on whose behalf the inspection was carried out, within 24 hours of completing the inspection to which the report relates.
- (2) Where the person who carries out an inspection works under the control of another (whether as an employee or otherwise) the person in control shall ensure the person who carries out the inspection complies with the requirements of paragraph (1).
- (3) The person on whose behalf the inspection was carried out shall—
- (a) keep the report or a copy of it available for inspection by an inspector for the Executive—
 - (i) at the site where the inspection was carried out until the construction work is completed; and
 - (ii) after that for 3 months; and
 - (b) send to the inspector such extracts from or copies of the report as the inspector may from time to time require.
- (4) This regulation does not require the preparation of more than one report where more than one inspection is carried out under regulation 21(4)(a)(i) or 22(2)(a)(i) within a 7 day period.

Energy distribution installations

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

(2) Where there is a risk to construction work from overhead 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.

(3) If it is not reasonably practicable to comply with paragraph 2(a) or (b), suitable warning notices shall be provided together with one or more of the following—

- (a) barriers suitable for excluding work equipment which is not needed;
- (b) suspended protections where vehicles need to pass beneath the cables; or
- (c) measures providing an equivalent level of safety.

(4) 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 not be carried out unless suitable and sufficient steps (including any steps required by this regulation) have been taken to prevent the risk, so far as is reasonably practicable.

Prevention of drowning

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

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

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

Traffic routes

26.—(1) A construction site shall be organised in such a way that, so far as is reasonably practicable, pedestrians and vehicles can move without risks to health or safety.

(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 does 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) other means for the protection of pedestrians are provided; and

- (ii) effective arrangements are used 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 for the exclusive use of pedestrians; and
 - (e) where it is unsafe for pedestrians to use a gate intended primarily for vehicles, at least one door for pedestrians is provided in the immediate vicinity of the gate, is clearly marked and is kept free from obstruction.
- (4) Each 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 is to 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

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

(2) Where a person may be endangered by the movement of a vehicle, suitable and sufficient steps to give warning to any person who is liable to be at risk from the movement of the vehicle shall be taken by either or both—

- (a) the driver or operator of the vehicle; or
- (b) where another person is directing the driver or operator because, due to the nature of the vehicle or task, the driver or operator does not have full visibility, the person providing directions.

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

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

(4) A person shall not 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 in that vehicle provided for that purpose.

(5) A person shall not 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 that person.

(6) Suitable and sufficient measures shall be taken to prevent a 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, flooding or asphyxiation

28. Suitable and sufficient steps shall be taken to prevent, so far as is reasonably practicable, the risk of injury to a 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

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

(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 made under paragraph (1), suitable and sufficient steps shall be taken to ensure that—

- (a) each 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

30.—(1) Where necessary in the interests of the health or safety of a 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) The matters in regulation 29(2) shall be taken into account when making provision under paragraph (1).

(3) An emergency route or exit shall lead as directly as possible to an identified safe area.

(4) An emergency route or exit and any traffic route giving access to it shall be kept clear and free from obstruction and, where necessary, provided with emergency lighting so that it may be used at any time.

(5) Each emergency route or exit shall be indicated by suitable signs.

Fire detection and fire-fighting

31.—(1) Where necessary in the interests of the health or safety of a person on a construction site, suitable and sufficient fire-fighting equipment and fire detection and alarm systems shall be provided and located in suitable places.

(2) The matters in regulation 29(2) shall be taken into account when making provision under paragraph (1).

(3) Fire-fighting equipment or fire detection and alarm systems shall be examined and tested at suitable intervals and properly maintained.

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

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

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

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

Fresh air

32.—(1) Suitable and sufficient steps shall be taken to ensure, so far as is reasonably practicable, that each construction site, or approach to a construction site, has sufficient fresh or purified air to ensure that the site or approach is safe and without risks to health or safety.

(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

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

(2) Where necessary to ensure the health or safety of persons at work on a construction site that is outdoors, the construction site shall, so far as is reasonably practicable, be arranged to provide protection from adverse weather, having regard to—

- (a) the purpose for which the site is used; and
- (b) any protective clothing or work equipment provided for the use of any person at work there.

Lighting

34.—(1) Each construction site and approach and traffic route to that site 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 or safety.

(3) Suitable and sufficient secondary lighting shall be provided in any place where there would be a risk to the health or safety of a person in the event of the failure of primary artificial lighting.

PART 5 GENERAL

Civil Liability

35. Breach of a duty imposed by the preceding provisions of these Regulations, other than those imposed by regulations 4(2)(b), 4(5), 13(4)(b) and (c), 15(10) and (11), and 16(2) and (3), 17 to 34 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

36.—(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(5), shall be the enforcing authority in respect of a construction site which is contained within, or forms part of, premises which

(5) S.R. 2006 No. 1254 (N.I. 9), as amended by S.R. 2006 No. 257 (C.15), S.I. 2006/3336 (N.I. 21), S.R. 2007 No. 194 (C. 11), 2008 c. 9, S.R. 2010 No. 325, S.R. 2010 No. 328 (C. 20), S.I. 2012/2404 and S.I. 2013/602

are occupied by persons other than those carrying out the construction work or any activity arising from such work as regards regulations 29 and 30, in so far as those regulations relate to fire, and regulation 31.

(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⁽⁶⁾.

Transitional and saving provisions

37. Schedule 5, which makes transitional and savings provisions, has effect.

Revocations and consequential amendments

38.—(1) The 2007 Regulations are revoked.

(2) The amendments in Schedule 6 have effect.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 11th March 2016.



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

⁽⁶⁾ S.R. 1991 No. 446, as amended by S.R. 1992 No. 413, S.R. 1999 No. 150, S.R. 2001 No. 436, S.R. 2003 No. 152 and S.R. 2015 No. 265