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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 146**

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

**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.

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**Changes to legislation:** *There are currently no known outstanding effects for the The Construction (Design and Management) Regulations (Northern Ireland) 2016, PART 3. (See end of Document for details)*

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(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.

**Changes to legislation:**

There are currently no known outstanding effects for the The Construction (Design and Management) Regulations (Northern Ireland) 2016, PART 3.