

SCHEDULE 5

TRANSITIONAL AND SAVING PROVISIONS

Projects with no existing CDM co-ordinator or principal contractor

3.—(1) This paragraph modifies the application of these Regulations in relation to a relevant project where, immediately before 1st August 2016—

- (a) no CDM co-ordinator or principal contractor is appointed for the project under the 2007 Regulations;
- (b) there is more than one contractor, or it is reasonably foreseeable that more than one contractor will be working on the project; and
- (c) the construction phase has started.

(2) Regulation 5 does not apply to the project.

(3) The client may appoint in writing a designer as principal designer.

(4) The client shall appoint in writing a contractor as principal contractor as soon as is practicable after 1st August 2016.

(5) The principal contractor shall draw up a construction phase plan or make arrangements for a construction phase plan to be drawn up under regulation 12(1) and (2) as soon as is practicable after 1st August 2016 and the requirement that the plan shall be drawn up during the pre-construction phase and before setting up a construction site is disapplied.

(6) The client, other than a domestic client, shall ensure that the principal contractor complies with sub-paragraph (5) and the client duty in regulation 4(5)(a) is disapplied.

(7) If the client does not appoint a principal designer, the principal contractor shall—

- (a) prepare a health and safety file under regulation 12(5) as soon as is practicable after 1st August 2016 and the requirement for the file to be prepared during the pre-construction phase is disapplied; and
- (b) ensure that the health and safety file is reviewed, updated and revised from time to time under regulation 12(6).

(8) If the client does not appoint a principal designer—

- (a) the references to the principal designer in regulations 4(5)(b) and 9(3)(b) are treated as references to the principal contractor;
- (b) the client duty in regulation 4(6)(a) does not apply; and
- (c) the principal contractor duties in regulations 12(7) and 13(5) do not apply.

(9) Where a client, other than a domestic client, fails to appoint a principal contractor under sub-paragraph (4) the client shall fulfil the duties of the principal contractor specified in these Regulations, as modified by this paragraph.

(10) Where the client is a domestic client—

- (a) regulation 7(2) does not apply; and
- (b) if the client fails to appoint a principal contractor under sub-paragraph (4) the principal contractor for the project is the contractor in control of the construction phase.