



CONSTRUCTION (DESIGN & MANAGEMENT) REGULATIONS 2007

CLIENT DUTIES

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INTRODUCTION

The CDM Regulations place certain duties on all parties (Client, Designers, CDM Co-ordinator, Principal Contractor and Contractors) to ensure that health & safety issues are addressed throughout all stages of a construction project.

The extracts from the CDM Regulations and the Approved Code of Practice that specify the Client duties are enclosed in the following pages (page 2 to 7) for information and attention. Courts generally regard the compliance with the code as compliance with health & safety law.

The main Client duties are as follows:

All Construction Projects:

1. Appointing competent and adequately resourced Designers and Contractors.
2. Providing Pre-Construction Information to Designers and Contractors.
3. Allowing sufficient time (including minimum mobilisation time to Contractors) and resources for all stages.
4. Ensuring suitable management arrangements for the project including welfare facilities.

On Notifiable Projects:

(where construction involves more than 30 days and or 500 person days)

In addition to the above duties:

5. Appointing a competent and adequately resourced CDM Co-ordinator as soon as practicable after initial design work.
6. Appointing a competent and adequately resourced Principal Contractor. **Client is deemed to have assumed the duties of the legal appointees (CDM Co-ordinator and Principal Contractor) on project, where he fails to make the appointments and in writing.**
7. Ensuring that the construction does not start until Principal Contractor prepares a suitable Construction Phase Plan and suitable welfare facilities are in place.
8. Ensuring that the Health & Safety File handed over to the Client is kept available for future construction work.

Extracts from CDM Regulations 2007**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 coordinate 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 2 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 1992 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;

Extracts from CDM Regulations 2007 Continued

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

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 coordinator") 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
 - (b) accordingly be subject to the duties imposed by regulations 20 and 21 on a CDM coordinator 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 2006(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.

Extracts from Approved Code of Practice (L144)

What clients must do for all projects

Paragraph 43

Clients must make sure that:

- a) designers, contractors and other team members that they propose to engage are competent (or work under the supervision of a competent person), are adequately resourced and appointed early enough for the work they have to do;
- b) they allow sufficient time for each stage of the project, from concept onwards;
- c) they co-operate with others concerned in the project as is necessary to allow other duty holders to comply with their duties under the Regulations;
- d) they co-ordinate their own work with others involved with the project in order to ensure the safety of those carrying out the construction work, and others who may be affected by it;
- e) there are reasonable management arrangements in place throughout the project to ensure that the construction work can be carried out, so far as is reasonably practicable, safely and without risk to health. (This does not mean managing the work themselves, as few clients have the expertise and resources needed and it can cause confusion);
- f) contractors have made arrangements for suitable welfare facilities to be provided from the start and throughout the construction phase;
- g) any fixed workplaces (for example offices, shops, factories, schools) which are to be constructed will comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992;3
- h) relevant information likely to be needed by designers, contractors or others to plan and manage their work is passed to them in order to comply with regulation 10.

Paragraph 44

Co-operation between parties and co-ordination of the work are key to the successful management of construction health and safety. Co-operation and co-ordination can only be meaningful if the relevant members of the project team have been appointed early enough to allow them to contribute to risk reduction. This is particularly important during the design stage when both clients and contractors should contribute to discussions on buildability, usability and maintainability of the finished structure. Clients should seek to appoint those who can assist with design considerations at the earliest opportunity so that they can make a full contribution to risk reduction during the planning stages.

Paragraph 45

Unrealistic deadlines and a failure to allocate sufficient funds are two of the largest contributors to poor control of risk on site. When engaging designers and contractors, and for notifiable projects appointing CDM co-ordinators and principal contractors, clients have to consider the resources (for example staff, equipment and, particularly, time) needed to plan and do the work properly. Any contractors who are being considered for appointment should be informed of the minimum time period allowed to them for planning and preparation before construction work begins on site. Contractors should be given sufficient time after their appointment to allow them to plan the work and mobilise the necessary equipment (for example welfare facilities) and staff to allow the work to proceed safely and without risk to health. This is particularly important where the project involves demolition work - contractors must be given sufficient time for the planning and safe execution of any demolition activities.

Paragraph 46

Clients should consult with appointees (including the principal contractor) to find out how much time they will need for planning and preparation before work is expected to start in order that both parties can agree a suitable time period. Similarly, CDM Co-ordinators will need sufficient time after their appointment to carry out their duties under the Regulations. Clients must then inform their appointees how much time the client has allowed for planning and preparation before the work starts.

Arranging design work

Paragraph 47

Clients must only employ designers who are competent to carry out their CDM duties.

Paragraph 48

Clients often employ more than one designer, for example architects, civil, structural and services engineers. In such cases they all need to know who does what, and the timing of the appointments needs to enable the design work to be co-ordinated from an early stage. Nominating one designer as the 'lead designer' is often the best way to ensure co-ordination

Extracts from Approved Code of Practice (L144) Continued

and co-operation during work which involves a number of designers. For notifiable sites, this 'lead designer' may be appointed as a CDM co-ordinator under regulation 14, but the CDM Co-ordinator's duties are wider than just design co-ordination and suitable arrangements must be made to carry out all of the CDM Co-ordinator's tasks.

Management arrangements

Paragraph 49

Most clients, particularly those who only occasionally commission construction work, will not be experts in the construction process and for this reason they are not required to take an active role in managing the work. Clients are required to take reasonable steps to ensure that suitable management arrangements are in place throughout the life of the project so that the work can be carried out safely and without risk to health. The arrangements put in place should focus on the needs of the particular job and should be proportionate to the risks arising from the work.

Paragraph 50

The client will need to ensure that arrangements are in place to ensure that:

- a) there is clarity as to the roles, functions and responsibilities of members of the project team;
- b) those with duties under the Regulations have sufficient time and resource to comply with their duties;
- c) there is good communication, co-ordination and co-operation between members of the project team (for example between designers and contractors);
- d) designers are able to confirm that their designs (and any design changes) have taken account of the requirements of regulation 11 (Designers' duties), and that the different design elements will work together in a way which does not create risks to the health and safety of those constructing, using or maintaining the structure;
- e) that the contractor is provided with the pre-construction information;
- f) contractors are able to confirm that health and safety standards on site will be controlled and monitored, and welfare facilities will be provided by the contractor from the start of the construction phase through to handover and completion.

Paragraph 64

For notifiable projects, the client must appoint a competent, adequately resourced CDM co-ordinator as soon as practicable after initial design work or other preparations for construction work have begun.

Appointment of the CDM co-ordinator

Paragraph 64

For notifiable projects, the client must appoint a competent, adequately resourced CDM co-ordinator as soon as practicable after initial design work or other preparations for construction work have begun.

Paragraph 65

The CDM co-ordinator provides clients with a key project advisor in respect of construction health and safety risk management matters. Their main purpose is to help clients to carry out their duties; to co-ordinate health and safety aspects of the design work and to prepare the health and safety file.

Paragraph 66

Early appointment is crucial for effective planning and establishing management arrangements from the start. The Regulations require the appointment to take place as soon as is practicable after initial design work or other preparation for construction work has begun. This allows the client to appraise their project needs and objectives, including the business case and any possible constraints on development to enable them to decide whether or not to proceed with the project before appointing the CDM co-ordinator. The CDM coordinator needs to be in a position to be able to co-ordinate design work and advise on the suitability and compatibility of designs, and therefore they should be appointed before significant detailed design work begins. Significant detailed design work includes preparation of the initial concept design and implementation of any strategic brief. As a scheme moves into the detailed design stage, it becomes more difficult to make fundamental changes that eliminate hazards and reduce risks associated with early design decisions.

Paragraph 67

Proper consideration of the health and safety implications of the design for those who build and maintain the structure will make a significant contribution to reducing its whole life cost, and will make delivery to time, cost and quality more likely.

Extracts from Approved Code of Practice (L144) Continued

Paragraph 68

The CDM co-ordinator can be an individual or a company. CDM Co-ordinator can be appointed independently of any other role on the project team, or they may combine this work with another role, for example, project manager, designer or principal contractor. Where the role is combined, it is crucial that the CDM Co-ordinator has sufficient independence to carry out their tasks effectively. The tasks can be shared out, but when this happens it is important to make sure that all of the duties are discharged. On simple projects, one person should be able to provide all of the support that clients need, but a team approach will be more common for larger or more complicated projects because of the workload and skills required.

Appointment of the principal contractor

Paragraph 69

For notifiable projects, clients must appoint one competent, adequately resourced principal contractor to plan, manage and monitor the construction work.

Paragraph 70

The principal contractor can be an organisation or an individual, and is usually the main or managing contractor. A principal contractor's key duty, is to co-ordinate and manage the construction phase to ensure the health and safety of everybody carrying out construction work, or who is affected by the work.

Paragraph 71

The principal contractor must be appointed as soon as the client knows enough about the project to select a suitable contractor. Early appointment allows the principal contractor and other specialists, for example maintenance contractors and facilities management experts to make a substantial contribution to ensuring the buildability and maintainability of the structure under construction. This helps to eliminate and reduce risks to health and safety, and to avoid interruptions, delays and other problems, which can add significantly to the costs of a project.

Paragraph 72

Early appointment is essential for the principal contractor to have sufficient time to develop an adequate construction phase plan and to arrange for appropriate resources, including welfare facilities, to be available when work commences on site. (Ensuring that welfare facilities are provided when work starts on site is a specific duty of the principal contractor, but the client also has a duty to make sure that the principal contractor has done so.) Principal contractors should be told as part of the pre-construction information the minimum amount of time which they will be given for planning and preparation before the construction work is expected to start on site (regulation 10(2)(c)).

Paragraph 73

There can only be one principal contractor at any one time. To ensure continuity, clients should normally keep the same principal contractor for the whole project from site clearance and preparation to final completion. However, there may be exceptions, for example where:

- a) preliminary works, for example involving demolition or site preparation work, where there is a substantial delay between site clearance and the start of new construction work;
- b) separate projects for different clients, for example for a building shell and subsequent fitting-out work.

Paragraph 74

In these cases, any change in principal contractor should:

- a) be clear to, and agreed by all those involved, particularly in relation to the timing of the change;
- b) be clearly recorded;
- c) provide the practical authority to enable the principal contractor to discharge his duties.

Management arrangements

Paragraph 75

For notifiable projects, clients must appoint a competent CDM co-ordinator who will assist them with the assessment of the adequacy of the management arrangements made by others in the project team. **Having appointed a competent CDM co-ordinator, the client is entitled to rely on their advice when making these judgments.**

Before the construction phase begins

Paragraph 76

For notifiable projects, before construction work begins clients must check to ensure that suitable welfare facilities have been provided, and that the construction phase plan has been prepared by the principal contractor. With the help of the CDM co-ordinator, clients must ensure that the plan is project-specific and suitable.

Extracts from Approved Code of Practice (L144) Continued

Paragraph 77

Once the construction phase has begun, neither clients nor CDM co-ordinators have a duty to check that the plan is updated; this is the responsibility of the principal contractor.

The health and safety file

Paragraph 78

For notifiable projects, the health and safety file ('the file') is a source of information that will help to reduce the risks and costs involved in future construction work, including cleaning, maintenance, alterations, refurbishment and demolition. Clients therefore need to ensure that the file is prepared and kept available for inspection in the event of such work. It is a key part of the information, which the client, or the client's successor, must pass on to anyone preparing or carrying out work to which CDM2007 applies.

Paragraph 79

As soon as a CDM co-ordinator is appointed, clients should discuss and agree a suitable, user-friendly format for the file and what type of information it should contain. At the end of the construction phase, normally at practical completion, the file must be finalised and given to the client by the CDM co-ordinator. In some cases, for example where there is partial occupation or phased handover of a project it may be needed earlier to inform other work. For this to happen, CDM Co-ordinators need to make appropriate arrangements at the beginning of the project to collect and compile the information that is likely to be needed for the file as work progresses.

Completion and handover (all projects)

Paragraph 80

One of the most important stages in a project is when it nears completion and is handed over to the client. It is rare for all construction work to be completed before handover. Sometimes clients, in their eagerness to have things up and running, assume control when a great deal of construction work remains.

Paragraph 81

Risks to employees and others not engaged in construction work can increase substantially as they visit the site or spend more time there. The risks to the construction workers can also increase, due to the presence and work of others not directly engaged or experienced in construction work.

Paragraph 82

To minimise such risks, the management of this phase needs to be considered well in advance to address:

- a) the nature, scope and duration of any finishing-off work;
- b) how this work will be managed and by whom;
- c) how the site will be split up, and access controlled, to safeguard construction workers as well as clients' employees and/or members of the public. For simple projects these arrangements can be discussed and agreed between the various parties. In more complex situations, the arrangements should be recorded as part of the construction phase plan.

What clients don't have to do

Paragraph 83

Clients are not required or expected to:

- a) plan or manage construction projects themselves; or
- b) specify how work must be done, for example requiring a structure to be demolished by hand. Indeed they should not do so unless they have the expertise to assess the various options and risks involved. (They should, of course, point out particular risks that would inform this decision.)
- c) provide welfare facilities for those carrying out construction work (though they should co-operate with the contractor to assist with his arrangements);
- d) check designs to make sure that regulation 11 has been complied with;
- e) visit the site (to supervise or check construction work standards);
- f) employ third party assurance advisors to monitor health and safety standards on site (though there may be benefits to the client in doing so);
- g) subscribe to third party competence assessment schemes (though there may be benefits from doing so).