

## **April 2015 – Construction Design & Management Regulations (CDM) 2015**



### **What are the changes and how do they affect you?**

On April 6<sup>th</sup> 2015 the CDM Regulations 2015 will come into force. This document identifies the major changes that will affect the construction industry and project duty holders.

The stated aim of the HSE is for CDM 2015 to bring “better integration and coordination of H&S during the pre-construction phase and for this integration and coordination to be a business function rather than a role”. It also aligns the UK with the European Temporary Mobile Construction Site Directive.

General information on the changes included in CDM 2015:

- Strict liability introduced for duty holders, including the client (ie where ‘must’ is used)
- All duty holders expected to comply with general principles of prevention
- All duty holders expected to be cognisant of key elements to securing health & safety in construction
- Construction work includes maintenance
- The requirements of CDM 2015 apply to all construction projects whether or not the project is notifiable
- There is a 6 month transition period

The two most significant changes to the Regulations are:

- The role of CDM Coordinator (CDM-C) for projects commencing in design after 6<sup>th</sup> April no longer exists, with the majority of CDM-C duties transferred to either a new role of Principal Designer (PD) or the client
- Client duties now apply to the Domestic client that commission construction work carried out at their home, or the home of a family member. However, these responsibilities are delegated as follows:
  - The contractor if there is one
  - The Principal Contractor if there is more than one contractor
  - The Principal Designer (if the client formally appoints in writing)

The HSE have published draft guidance to the CDM 2015 Regs (L153) which will be updated and formally issued on 6<sup>th</sup> April. The existing ACoP will be withdrawn and is not expected to be replaced until the Spring of 2016.

A summary of the key elements from the draft guidance can be found below:

- Reg 4 – client duties
  - Must make suitable arrangements for managing a project, including the allocation of sufficient time and other resources

- Must ensure that these arrangements are maintained and reviewed throughout the project
- Must provide pre-construction information (PCI) as soon as practicable to every designer and contractor appointed
- Must ensure a construction phase plan (CPP) is drawn-up by the contractor before the construction phase begins
- Must ensure the principal designer (PD) prepares a H&S File (only required for projects involving more than one contractor)
- Must take reasonable steps to ensure that the PD and PC comply with their duties

NB

- CDM 2015 makes the client accountable for the impact their decisions and approach have on health, safety and welfare on the project
- Clients should prepare a 'client's brief' to set out the arrangements
- Reg 5 – appointment of PD and PC
  - Where there is more than one contractor, the client must appoint in writing a PD & PC before the construction phase begins
- Reg 6 – Notification
  - A project is notifiable if the construction work:
    - Lasts longer than 30 working days **AND** have more than 20 workers working simultaneously **or**
    - Exceeds 500 person days
  - Where the project is notifiable, the client must give notice as soon as practicable before the construction phase begins
- Reg 9 – duties of designer
  - Must not commence work unless satisfied the client is aware of the duties owed by the client
  - When preparing or modifying a design must take into account the general principles of prevention and any PCI to eliminate, SFAIRP, foreseeable risks to H&S of any person
  - If it is not possible to eliminate these risks, the designer must, SFAIRP,
    - Take steps to reduce, or if that is not possible, control the risks
    - Provide information about these risks to the PD
    - Ensure information is included in the H&S File
- Reg 11 – duties of a principal designer (PD) in relation to H&S at the pre-construction phase (PCP)
  - PD must plan, manage and monitor the PCP and coordinate H&S to ensure, SFAIRP, the project is carried out without risks to H&S
  - PD must take into account the general principles of prevention
  - PD must identify and eliminate or control, SFAIRP, foreseeable risks to the H&S of any person
  - PD must ensure the designers comply with their duties
  - PD must ensure all persons working in PCP cooperate with others
  - PD must assist the client in the provision of the PCI
  - PD must provide PCI to every designer and contractor appointed
  - PD must liaise with the PC
- Reg 12 – CPP and H&S File
  - During PCP, and before setting up a construction site, the PC must draw up a CPP
  - CPP must set out the H&S arrangements and site rules
  - PD must assist the PC in preparing the CPP

- Throughout the project the PC must ensure the CPP is appropriately reviewed, updated and revised
- During the PCP, the PD must prepare a H&S File
- PD must ensure the H&S File is appropriately reviewed, updated and revised
- PC must provide the PD with information relevant to the H&S File
- At the end of the project the PD must pass the H&S File to the client
- Reg 13 – duties of a PC do not differ from those in CDM 2007, except for;
  - A PC must not carry out work unless they are satisfied the client is aware of their duties, and;
- Reg 14 – PC duties to consult and engage with workers
  - PC must
    - Make and maintain arrangements for PC and workers to cooperate effectively to ensure health, safety and welfare of the workers
    - Consult with the workers or their representatives
    - Ensure the workers and their representatives can inspect and take copies of the information the PC has which relates to health, safety and welfare
- Reg 15 – duties of a contractor do not differ from those in CDM 2007, except for;
  - A contractor must not carry out work unless they are satisfied the client is aware of their duties
  - If there is only one contractor the contractor must take account of the general principles of prevention

So what next?

Clients now have wider responsibilities to ensure the PC and PD comply with their duties. Design Consultants may have a gap in their H&S skills and knowledge.

The HSE have stated within the draft regulations and guidance that Clients and PDs can engage the services of competent construction H&S resource to support them in the delivery of their duties and compliance with CDM 2015.

If you have any questions on CDM 2015 you can contact Brian Cable at elnet consulting ltd ([www.elnetconsulting.com](http://www.elnetconsulting.com)).

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

Brian Cable is a Director of elnet consulting ltd