



WHAT ARE THE 'CDM REGULATIONS' AND HOW WILL THEY AFFECT ME?

New site safety regulations mean big changes for any business ordering construction work

Businesses of all sizes which are likely to be contracting for construction work could risk fines or imprisonment if they do not comply with new legal requirements covering site management and safety.

The Construction (Design and Management) (CDM) Regulations, which came into force on 6 April, affect all construction work taking place in the UK. The regulations give 'clients', meaning anyone for whom a construction project is carried out, a greater role while the work is carried out. Even work carried out on behalf of homeowners will be caught by the new rules, although it is commercial firms that will be affected most. Most client duties for homeowners will pass as soon as they have appointed a contractor for the work.

Once in force, the regulations will require commercial firms to appoint a principal designer and principal contractor whenever any work involves more than one contractor - even where the work involved is very limited and over quickly. The scope of 'construction work' under the regulations is wide, covering everything from major infrastructure projects like HS2 to installing a new office shower. Those who get it wrong may face prosecution - with the potential for unlimited fines and even, in the case of individuals, imprisonment if convicted.

Headline changes

The regulations replace the existing CDM coordinator role with that of a 'principal designer', responsible for the planning, management and coordination of the project's pre-construction phase. The client must appoint a principal designer whenever a project of any size involves more than one contractor - for example, if a plumber and an electrician are appointed to install an electric shower.

Clients appointing others on projects will also be subject to a new general requirement to take reasonable steps to satisfy themselves that the appointee has the skill, knowledge and experience and - if the contractor is an organisation - capability necessary to fulfil the role. This replaces the 'competence' requirements included in the previous CDM Regulations. The current threshold at which clients must notify construction work to the Health and Safety Executive (HSE) will also change, resulting in fewer projects being notified.

Client responsibilities

Through the new regulations, HSE has tightened its oversight of the role played by commercial firms in their own construction projects. In its guidance on the new regulations, HSE said that clients are



important because they have a major influence over how a project is procured and managed. HSE believes that its new focus is justified because of the perceived impact that client decisions and approach have on health, safety and welfare during construction work.

So from 6 April, firms have been expected to make suitable arrangements to ensure construction work on their behalf is carried out without risks to health and safety, so far as is reasonably practicable. This includes providing relevant pre-construction information such as asbestos surveys to each designer and contractor on the project as soon as possible. They also have to ensure that the contractor, or principal contractor if applicable, has drawn up a construction phase health and safety plan for all projects including routine maintenance.

The real challenge for these firms will not be on large construction projects, but rather in routine building maintenance tasks. The regulations still apply and a construction phase health and safety plan will be necessary – and, whenever more than one contractor is involved, then both a principal designer and principal contractor will have to be appointed. The HSE guidance warns that if a client fails to appoint either of these roles then the client must carry out their associated duties instead.

The HSE guidance suggests that commercial clients should adopt a proportionate approach to the regulations, taking into account the size of the project and the particular risks involved. However the approach that the HSE, as the body tasked with enforcing the regulations, will take to proportionality in practice will remain uncertain until the regulations have been up and running for a while or further guidance is provided.

The changes to the regulations aim to:

- Improve health and safety in the construction industry, particularly on smaller construction sites.
- Cut back on red tape to reduce the admin burden on SMEs and make bidding for work more accessible.

Key changes to the regulations include:

- Replacement of the CDM Co-ordinator (CDM-C) role with a Principal Designer responsible for health and safety in the design team.
- Before work starts on site, the client is required to appoint a Principal Designer and Principal Contractor - while ensuring that these are able to demonstrate that they can deliver the project in a way that ensures health and safety best practice.
- Client duties have been extended to cover domestic projects. These duties are normally transferred to the Principal Contractor.
- A construction phase plan will be required for all projects.
- The client must notify the HSE of any projects that are expected to last more than 30 working days (with more than 20 persons on site).

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