
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 291

**The Construction (Design and Management)
Regulations (Northern Ireland) 2007**

PART 5

GENERAL

Civil liability

44. Breach of a duty imposed by the preceding provisions of these Regulations, other than those imposed by regulations 9(1)(b), 13(6) and (7), 16, 22(1)(c) and (1), 25(1), (2) and (4), 26 to 43 and Schedule 3, shall not confer a right of action in any civil proceedings insofar as that duty applies for the protection of a person who is not an employee of the person on whom the duty is placed.

Enforcement in respect of fire

45.—(1) Subject to paragraph (2), the Northern Ireland Fire and Rescue Service Board, within the meaning of the Fire and Rescue Services (Northern Ireland) Order 2006(1), shall be the enforcing authority in respect of a construction site which is contained within, or forms part of, premises which are occupied by persons other than those carrying out the construction work or any activity arising from such work as regards regulations 38 and 39, in so far as those regulations relate to fire, and regulation 40.

(2) Paragraph (1) shall not apply in respect of any premises of a description specified in Part 1 of Schedule 1 to the Fire Certificates (Special Premises) Regulations (Northern Ireland) 1991(2).

Transitional provisions

46.—(1) These Regulations shall apply in relation to a project which began before their coming into operation, with the following modifications.

(2) Subject to paragraph (3), where the time specified in paragraph (1) or (2) of regulation 14 for the appointment of the CDM co-ordinator or the principal contractor occurred before the coming into operation of these Regulations, the client shall appoint the CDM co-ordinator or, as the case may be, the principal contractor, as soon as is practicable.

(3) Where a client appoints any planning supervisor or principal contractor already appointed under regulation 6 of the Construction (Design and Management) Regulations 1995(3) (“the 1995 Regulations”) as the CDM co-ordinator or the principal contractor respectively pursuant to paragraph (2), regulation 4(1) shall have effect so that the client shall within 12 months of the coming into operation of these Regulations take reasonable steps to ensure that any CDM co-ordinator or principal contractor so appointed is competent within the meaning of regulation 4(2).

(1) S.R. 2006 No. 1254 (N.I. 9)

(2) S.R. 1991 No. 446, as amended by S.R. 1999 No. 150, S.R. 2001 No. 436 and S.R. 2003 No. 152

(3) S.R. 1995 No. 209, as amended by S.R. 1997 No. 229, S.R. 1999 No. 150, S.R. 2000 No. 388 and S.R. 2001 No. 142

(4) Any planning supervisor or principal contractor appointed under regulation 6 of the 1995 Regulations shall, in the absence of an express appointment by the client, be treated for the purposes of paragraph (2) as having been appointed as the CDM co-ordinator, or the principal contractor, respectively.

(5) Any person treated as having been appointed as the CDM co-ordinator or the principal contractor pursuant to paragraph (4) shall within 12 months of the coming into operation of these Regulations take such steps as are necessary to ensure that he is competent within the meaning of regulation 4(2).

(6) Any agent appointed by a client under regulation 4 of the 1995 Regulations before the coming into operation of these Regulations may, if requested by the client and if he himself consents, continue to act as the agent of that client and shall be subject to such requirements and prohibitions as are placed by these Regulations on that client, unless or until such time as such appointment is revoked by that client, or the project comes to an end, or 5 years elapse from the coming into operation of these Regulations, whichever arises first.

(7) Where notice has been given under regulation 7 of the 1995 Regulations, the references in regulations 19(1)(c) and 22(1)(k) to notice under regulation 21 shall be construed as being to notice under that regulation.

Revocations and amendments

47.—(1) The statutory provisions referred to in column 1 of Schedule 5 shall be revoked to the extent specified in the corresponding entry in column 3 of that Schedule.

(2) The statutory provisions referred to in column 1 of Schedule 6 shall be amended to the extent specified in the corresponding entry in column 3 of that Schedule.