
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations revoke and re-enact, with modifications, the Construction (Design and Management) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 291) (the “2007 Regulations”). They implement in Northern Ireland the requirements of Directive [92/57/EEC](#) (O.J. No. L245, 26.8.92, p6) (“the Directive”) on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive [89/391/EEC](#)), except certain technical requirements in the annexes to the Directive which are implemented by other health and safety regulations relating to specific hazards or circumstances. These include the Work at Height Regulations (Northern Ireland) 2005 (S.R. 2005 No. 279) and the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993 (S.R. 1993 No. 37).

2. Part 2 sets out the client duties under the Regulations. Part 3 provides for various health and safety duties and roles, namely general duties, the duties of the principal designer, principal contractor, designers and contractors. Part 4 provides the general requirements for all construction sites which remain largely unchanged from the 2007 Regulations. Part 5 sets out the general provisions including civil liability.

3. The main changes from the 2007 Regulations are—

- (a) These Regulations apply to all clients of construction projects, whether or not a person is acting in the course or furtherance of a business (*regulation 2(1)*).
- (b) Pre-construction archaeological investigations are not included within the scope of the definition of construction work (*regulation 2(1)*).
- (c) The role of CDM co-ordinator has been removed and various duties have been recast including client duties (*regulation 4*) and general duties (*regulation 8*).
- (d) A client is required to appoint a principal designer as well as a principal contractor in any project where there is, or it is reasonably foreseeable that there will be, more than one contractor working on the project (*regulation 5*). Under the 2007 Regulations appointments for similar roles were required for notifiable projects.
- (e) The duty to notify now lies with a client and the threshold for notification is raised (*regulation 6*).
- (f) If a client is a domestic client, most of their duties will be carried out by the contractor, principal contractor, or principal designer (*regulation 7*).
- (g) The duties of the principal designer are set out in regulations 11 and 12.
- (h) Modified duties of the principal contractor are set out in regulation 12 to 14.
- (i) Modified duties of contractors and are set out in regulation 15.
- (j) Transitional provisions are set out in Schedule 5.

4. The key changed role in these Regulations from the 2007 Regulations is that of the principal designer. This role fulfils the function of a safety and health coordinator for the project preparation stage as required by Article 3.1 of the Directive which was previously carried out by the role of CDM co-ordinator. The principal designer has more a central role in the project than that of a CDM co-ordinator as they must be a designer with control over the pre-construction phase of the project (*regulation 5(1)(a)*). The pre-construction phase includes all design and preparation work for the

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construction project (*regulation 2(1)*). The principal designer is required to coordinate all health and safety matters relating to the pre-construction phase alongside the overall planning, management and monitoring of the pre-construction phase of the project (*regulation 11(1)*).

5. Schedule 5 provides transitional provisions for existing projects. Where an existing project has a CDM co-ordinator, a principal designer must be appointed within twelve months of the date these Regulations come into operation unless the project ends before that date (*paragraph 4 of Schedule 5*). During the interim period the existing CDM co-ordinator must fulfil the duties in paragraph 5 of Schedule 5.

6. The principal contractor role fulfils the role of safety and health coordinator for the project execution stage as required by Article 3.1 of the Directive. The core duties of the principal contractor have only minor modifications from those imposed under the 2007 Regulations and a principal contractor who has been appointed to an existing project under the 2007 Regulations will be treated as if they had been appointed as a principal contractor under these Regulations (*paragraph 8 of Schedule 5*).

7. In Great Britain the corresponding Regulations are the Construction (Design and Management) Regulations 2015 (S.I. 2015/51). The Great Britain Health and Safety Executive has prepared a full impact assessment in relation to those Regulations. A copy of that assessment together with a Northern Ireland supplement prepared by the Health and Safety Executive for Northern Ireland is held at the offices of that Executive at 83 Ladas Drive, Belfast, BT6 9FR, from where a copy may be obtained on request. A copy of the transposition note in relation to the implementation of the Directive set out in paragraph 1 can also be obtained from the same address. Copies of both these documents are annexed to the Explanatory Memorandum which is available alongside these Regulations at www.legislation.gov.uk.

8. A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable—

- (a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £20,000, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding two years, or a fine, or both.

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