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STATUTORY INSTRUMENTS

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**1994 No. 3140**

**The Construction (Design and Management) Regulations 1994**

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“agent” in relation to any client means any person who acts as agent for a client in connection with the carrying on by the person of a trade, business or other undertaking (whether for profit or not);

“cleaning work” means the cleaning of any window or any transparent or translucent wall, ceiling or roof in or on a structure where such cleaning involves a risk of a person falling more than 2 metres;

“client” means any person for whom a project is carried out, whether it is carried out by another person or is carried out in-house;

“construction phase” means the period of time starting when construction work in any project starts and ending when construction work in that project is completed;

“construction work” means the carrying out of any building, civil engineering or engineering construction work and includes any of the following—

- (a) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of substances classified as corrosive or toxic for the purposes of regulation 7 of the Chemicals (Hazard Information and Packaging) Regulations 1993(1)), de-commissioning, demolition or dismantling of a structure,
- (b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and laying or installing the foundations of the structure,
- (c) the assembly of prefabricated elements to form a structure or the disassembly of prefabricated elements which, immediately before such disassembly, formed a structure,
- (d) the removal of a structure or part of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which, immediately before such disassembly, formed a structure, and
- (e) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

but does not include the exploration for or extraction of mineral resources or activities preparatory thereto carried out at a place where such exploration or extraction is carried out;

“contractor” means any person who carries on a trade, business or other undertaking (whether for profit or not) in connection with which he—

- (a) undertakes to or does carry out or manage construction work,

- (b) arranges for any person at work under his control (including, where he is an employer, any employee of his) to carry out or manage construction work;

“design” in relation to any structure includes drawing, design details, specification and bill of quantities (including specification of articles or substances) in relation to the structure;

“designer” means any person who carries on a trade, business or other undertaking in connection with which he—

- (a) prepares a design, or
- (b) arranges for any person under his control (including, where he is an employer, any employee of his) to prepare a design,

relating to a structure or part of a structure;

“developer” shall be construed in accordance with regulation 5(1);

“domestic client” means a client for whom a project is carried out not being a project carried out in connection with the carrying on by the client of a trade, business or other undertaking (whether for profit or not);

“health and safety file” means a file, or other record in permanent form, containing the information required by virtue of regulation 14(d);

“health and safety plan” means the plan prepared by virtue of regulation 15;

“planning supervisor” means any person for the time being appointed under regulation 6(1)(a);

“principal contractor” means any person for the time being appointed under regulation 6(1)(b);

“project” means a project which includes or is intended to include construction work;

“structure” means—

- (a) any building, steel or reinforced concrete structure (not being a building), railway line or siding, tramway line, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipe-line (whatever, in either case, it contains or is intended to contain), cable, aqueduct, sewer, sewage works, gasholder, road, airfield, sea defence works, river works, drainage works, earthworks, lagoon, dam, wall, caisson, mast, tower, pylon, underground tank, earth retaining structure, or structure designed to preserve or alter any natural feature, and any other structure similar to the foregoing, or
- (b) any formwork, falsework, scaffold or other structure designed or used to provide support or means of access during construction work, or
- (c) any fixed plant in respect of work which is installation, commissioning, de-commissioning or dismantling and where any such work involves a risk of a person falling more than 2 metres.

(2) In determining whether any person arranges for a person (in this paragraph called “the relevant person”) to prepare a design or to carry out or manage construction work regard shall be had to the following, namely—

- (a) a person does arrange for the relevant person to do a thing where—
  - (i) he specifies in or in connection with any arrangement with a third person that the relevant person shall do that thing (whether by nominating the relevant person as a subcontractor to the third person or otherwise), or
  - (ii) being an employer, it is done by any of his employees in-house;
- (b) a person does not arrange for the relevant person to do a thing where—
  - (i) being a self-employed person, he does it himself or, being in partnership it is done by any of his partners; or
  - (ii) being an employer, it is done by any of his employees otherwise than in-house, or

(iii) being a firm carrying on its business anywhere in Great Britain whose principal place of business is in Scotland, it is done by any partner in the firm; or

(iv) having arranged for a third person to do the thing, he does not object to the third person arranging for it to be done by the relevant person,

and the expressions “arrange” and “arranges” shall be construed accordingly.

(3) For the purposes of these Regulations—

(a) a project is carried out in-house where an employer arranges for the project to be carried out by an employee of his who acts, or by a group of employees who act, in either case, in relation to such a project as a separate part of the undertaking of the employer distinct from the part for which the project is carried out; and

(b) construction work is carried out or managed in-house where an employer arranges for the construction work to be carried out or managed by an employee of his who acts or by a group of employees who act, in either case, in relation to such construction work as a separate part of the undertaking of the employer distinct from the part for which the construction work is carried out or managed; and

(c) a design is prepared in-house where an employer arranges for the design to be prepared by an employee of his who acts, or by a group of employees who act, in either case, in relation to such design as a separate part of the undertaking of the employer distinct from the part for which the design is prepared.

(4) For the purposes of these Regulations, a project is notifiable if the construction phase—

(a) will be longer than 30 days; or

(b) will involve more than 500 person days of construction work,

and the expression “notifiable” shall be construed accordingly.

(5) Any reference in these Regulations to a person being reasonably satisfied—

(a) as to another person’s competence is a reference to that person being satisfied after the taking of such steps as it is reasonable for that person to take (including making reasonable enquiries or seeking advice where necessary) to satisfy himself as to such competence; and

(b) as to whether another person has allocated or will allocate adequate resources is a reference to that person being satisfied that after the taking of such steps as it is reasonable for that person to take (including making reasonable enquiries or seeking advice where necessary)

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(i) to ascertain what resources have been or are intended to be so allocated; and

(ii) to establish whether the resources so allocated or intended to be allocated are adequate.

(6) Any reference in these Regulations to—

(a) a numbered regulation or Schedule is a reference to the regulation in or Schedule to these Regulations so numbered; and

(b) a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference appears.