
STATUTORY INSTRUMENTS

2007 No. 320

The Construction (Design and Management) Regulations 2007

PART 5

GENERAL

Civil liability

45. 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 44 and Schedule 2, 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

46.—(1) Subject to paragraphs (2) and (3)—

- (a) in England and Wales the enforcing authority within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005⁽¹⁾; or
- (b) in Scotland the enforcing authority within the meaning of section 61 of the Fire (Scotland) Act 2005⁽²⁾,

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 39 and 40, in so far as those regulations relate to fire, and regulation 41.

(2) In England and Wales paragraph (1) only applies in respect of premises to which the Regulatory Reform (Fire Safety) Order 2005 applies.

(3) In Scotland paragraph (1) only applies in respect of premises to which Part 3 of the Fire (Scotland) Act 2005 applies⁽³⁾.

Transitional provisions

47.—(1) These Regulations shall apply in relation to a project which began before their coming into force, 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 force 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.

(1) [S.I. 2005/1541](#), to which there are amendments not relevant to these Regulations. All functions of the Secretary of State under the Order, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by [S.I. 2006/1458](#).

(2) [2005 asp 5](#). Section 61(9) was amended by [S.I. 2005/2060](#) article 2(1) and (4)(a) and (b).

(3) Section 77(1) was amended and 77(1A) inserted by [S.I. 2005/2060](#) article 2(1) and (6)(a) and (b); section 77A was inserted by [S.I. 2005/2060](#) article 2(1) and (7); section 78(2) was amended by [S.S.I. 2005/352](#) regulation 2 and [S.I. 2005/2060](#) article 2(1) and (8)(a); section 78(3) was amended and 78(5A) inserted by [S.I. 2005/2060](#) article 2(1) and (8)(b) and (c).

(3) Where a client appoints any planning supervisor or principal contractor already appointed under regulation 6 of the Construction (Design and Management) Regulations 1994(4) (referred to in this regulation as “the 1994 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 twelve months of the coming into force 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).

(4) Any planning supervisor or principal contractor appointed under regulation 6 of the 1994 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 twelve months of the coming into force 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 1994 Regulations before the coming into force 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 five years elapse from the coming into force of these Regulations, whichever arises first.

(7) Where notice has been given under regulation 7 of the 1994 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

48.—(1) The revocations listed in Schedule 4 shall have effect.

(2) The amendments listed in Schedule 5 shall have effect.

(4) [S.I. 1994/3140](#), amended by [S.I. 2006/557](#); there are other amending instruments but none is relevant.