

CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2015



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> What is CDM 2015?

The Construction (Design and Management) Regulations 2015 came into force on 6 April 2015 and replace CDM Regulations 2007. These Regulations cover the design and management of all construction projects which take place in the UK, and apply to all new projects from this date.

In brief, the key changes under these Regulations are:

- 1** The Client should inform the Health and Safety Executive (HSE) as soon as possible before work starts on a construction project which lasts 30 or more days with more than 20 workers occupying the site simultaneously, or projects that exceed 500 person days.
- 2** The role of Construction Design and Management Coordinator (CDMC) has been removed, and a new role of Principal Designer has been introduced to coordinate the pre-construction phase of construction work.
- 3** Clients are required to appoint a Principal Designer and Principal Contractor in writing for all projects involving more than one Contractor.
- 4** Greater emphasis is placed on the Client to ensure as far as reasonably practicable that those they appoint are competent and comply with their duties under the Regulations.
- 5** All construction activities must have pre-construction information produced by the Client, and a construction phase plan produced by the Principal Contractor or Contractor.

> Impacts for Facilities Managers

Under the new Regulations, the scope of what constitutes construction work has not been changed, but the definition of construction work includes many facilities management works, such as office cabling, building refurbishments, installation, removal or maintenance of mechanical or electrical equipment attached to a building, which may be considered as construction works under the Regulations.

It will therefore be important for Facilities Managers to be familiar with their duties under these Regulations, as they may be dependent on the services they carry out.

Facilities Managers who organise construction work to be carried out, such as arranging for removal, installation or partitioning in preparation for the property to be let out, may be deemed “Clients”, providing they are not conducting these activities on behalf of another party, and will be expected to fulfil the Client’s duties under the new Regulations.

Client duties: a summary

- > Make suitable arrangements for managing the project. This will include stipulating how the project is to be run, and how the designers and contractors will be selected to ensure only competent duty holders are appointed to the project. Suitable arrangements will include the allocation of sufficient time and resources throughout the project to secure health and safety. Ensuring that adequate welfare facilities will be available for workers for the duration of the construction phase.
- > Make formal appointments of the Principal Contractor and Principal Designer on all projects involving more than one contractor. Following these appointments, arrangements will need to be made so that reasonable steps are taken to ensure that Principal Designers and Principal Contractors are complying with their individual duties; which can be conducted via regular meetings, reports or audits.
- > Provide designers and contractors with pre-construction information, as early as possible, which is relevant to the project and reasonably obtainable. This may include information relating to health and safety hazards on site such as surveys, inspections and health and safety files associated with previous construction works.
- > Notify the Health and Safety Executive of any project that meets the notification thresholds i.e. that lasts 30 or more days with more than 20 workers occupying the site simultaneously, or projects that exceed 500 person days.
- > Prior to allowing construction work to commence, check that the contractor has prepared a relevant construction phase plan which meets the requirements of the project.
- > Once the project is completed the Client is required to retain a copy of the health and safety file and supply this information to any relevant persons who conduct or are likely to conduct future construction works in this area or purchase the structure.

> Impacts for Facilities Managers (continued)

Facilities Managers who prepare or modify designs associated with construction work, such as modifying any building plans in preparation for pending construction works on behalf of a Client, may be deemed a “Designer”. A Designer who is appointed by the Client to plan, manage, monitor and coordinate health and safety in the pre-construction phase of a project will need to fulfil the duties of a Principal Designer.

Facilities Managers who have been appointed by the Client to coordinate health and safety within the construction phase may take on the role of Principal Contractor, whilst Facilities Managers who undertake actual construction work may be seen as Contractors under the Regulations.

Guidance on duties for each of these roles can be found in the

> **Health and Safety Executive’s Legal Guidance document L153**

and additionally the Construction Industry Training Board (CITB), in coordination with CONIAC (Construction Industry Advisory Committee) has produced industry guidance specific for each of the duty holders, which can be found:

- > **CDM Industry Guidance – Clients**
- > **CDM Industry Guidance – Principal Designer**
- > **CDM Industry Guidance – Principal Contractor**
- > **CDM Industry Guidance – Designer**
- > **CDM Industry Guidance – Contractor**
- > **CDM Industry Guidance – Worker**

Potentially, estate owners carrying out maintenance and refurbishment work across their portfolios will incur additional costs from Designers and Contractors for the added work that they now have to undertake. They also have to confront increased compliance risks as a result of the introduction of new duties and the strict liabilities associated with the conduct of the duty holders.

Facilities Managers should ensure that they are able to demonstrate that they have the skills, knowledge, training, and experience necessary to carry out the work in a way that secures health and safety during the project.

Competence is about ensuring that those (organisations or persons) who are appointed in roles under these Regulations have the ability to carry them out in a way that supports health and safety during the project.

Facilities Managers may be able to demonstrate competency through providing details of the training and qualifications they have received in relation to all aspects of their work, as evidence that they have the necessary skills to conduct their role appropriately. Facilities Managers may also be able to provide the details on historical projects, of a similar nature, where they have conducted or managed construction works safely as evidence of experience.

> Repercussions

Projects that fail to apply the principles of the Construction (Design Management) Regulations 2015, by not planning for health and safety at all stages of the project, risk costly delays as a result of accidents and incidents associated with the works or poor design. There is also a risk of the need to conduct expensive future works to rectify issues that could have been designed out in the original project.

As the primary enforcement authority for construction sites is HSE, the ultimate enforcement action is criminal prosecution due to a breach of the CDM Regulations and any resulting legal costs incurred during the defence.

There is also the potential for enforcement by way of prohibition notices, preventing further work until the matter has been resolved, or improvement notices which require alterations to the activities. For any material breaches of the legislation, HSE charge a fee of £124 an hour under the Fees for Intervention (FFI) scheme for their time in dealing with the matter through to resolution.



How International Workplace can assist FMs with their client duties:

At International Workplace, we have a number of consultants and associates with a wealth of experience of health and safety within the construction industry. FM clients who wish to have their health and safety arrangements and standards for construction projects independently reviewed to ensure satisfactory compliance and best practice, can contact us.

E: hse.account.managers@internationalworkplace.com

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About BIFM

The British Institute of Facilities Management (BIFM) is the professional body for Facilities Management (FM). Founded in 1993, we promote excellence in facilities management for the benefit of practitioners, the economy and society. Supporting and representing over 16,000 members around the world, both individual FM professionals and organisations, and thousands more through qualifications and training. We promote and embed professional standards in facilities management. Committed to advancing the facilities management profession we provide a suite of membership, qualifications, training and networking services designed to support facilities management practitioners in performing to the best of their ability.

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