



Statutory Document No.878/03

THE HEALTH AND SAFETY AT WORK, ETC. ACT 1974

THE CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2003

Approved by Tynwald

21st January 2004

Coming into operation

1st October 2004

In exercise of the powers conferred on the Department of Local Government and the Environment by sections 15(1), (2), (3)(a) and (c), (4)(a), (6)(b) and (9), and 82(3)(a) of, and paragraphs 1(1)(c), 6(1), 14, 15(1), 20 and 21 of Schedule 3 of, the Health and Safety at Work, Etc. Act 1974 (an Act of Parliament)¹, as it has effect in the Island² and of all other enabling powers, and after consulting such organisations as appear to it to be representative of interests likely to be substantially affected thereby, the following Regulations are hereby made:-

1. Citation and commencement

These Regulations may be cited as the Construction (Design and Management) Regulations 2003 and, subject to section 82(5) of the Act, shall come into operation on the 1st October 2004.

2. Interpretation

(1) In these Regulations—

"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;

¹ 1974 c.37

² SD 155/98

Price Code B £1.70

"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 corrosive or toxic substances, 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;

"the Department" means the Department of Local Government and the Environment;

"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 prepares a design;

"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;

"the Management Regulations" means the Management of Health and Safety at Work Regulations 2003³;

"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—

³ SD 877/03

- (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) 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) Any reference in these Regulations to a person preparing a design shall include a reference to his employee or other person at work under his control preparing it for him; but nothing in this paragraph shall be taken to affect the application of paragraph (2).

(5) 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 "notifiable" shall be construed accordingly.

- (6) 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)—
 - (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.

3. Application of regulations

(1) Subject to the following paragraphs of this regulation, these Regulations shall apply to and in relation to construction work.

(2) Subject to paragraph (3), regulations 4 to 12 and 14 to 19 shall not apply to or in relation to construction work included in a project where the client has reasonable grounds for believing that—

- (a) the project is not notifiable; and
- (b) the largest number of persons at work at any one time carrying out construction work included in the project will be or, as the case may be, is less than 5.

(3) These Regulations shall apply to and in relation to construction work which is the demolition or dismantling of a structure notwithstanding paragraph (2).

(4) Regulation 14(b) shall not apply to projects in which no more than one designer is involved.

(5) Regulation 16(1)(a) shall not apply to projects in which no more than one contractor is involved.

(6) Where construction work is carried out or managed in-house or a design is prepared in-house, then, for the purposes of paragraphs (4) and (5), each part of the undertaking of the employer shall be treated as a person and shall be counted as a designer or, as the case may be, contractor, accordingly.

(7) Except where regulation 5 applies, regulations 4, 6, 8 to 12 and 14 to 19 do not apply to or in relation to construction work included or intended to be included in a project carried out for a domestic client.

4. Clients and agents of clients

(1) A client may appoint an agent or another client to act as the only client in respect of a project and where such an appointment is made the provisions of paragraphs (2) to (5) shall apply.

(2) No client shall appoint any person as his agent under paragraph (1) unless the client is reasonably satisfied that the person he intends to appoint as his agent has the competence to perform the duties imposed on a client by these Regulations.

(3) Where the person appointed under paragraph (1) makes a declaration in accordance with paragraph (4), then, from the date of receipt of the declaration by the Department, such requirements and prohibitions as are imposed by these Regulations upon a client shall apply to the person so appointed (so long as he remains as such) as if he were the only client in respect of that project.

(4) A declaration in accordance with this paragraph—

(a) is a declaration in writing, signed by or on behalf of the person referred to in paragraph (3), to the effect that the client or agent who makes it will act as client for the purposes of these Regulations; and

(b) shall include the name of the person by or on behalf of whom it is made, the address where documents may be served on that person and the address of the construction site; and

(c) shall be sent to the Department.

(5) Where the Department receives a declaration in accordance with paragraph (4), it shall give notice to the person by or on behalf of whom the declaration is made and the notice shall include the date the declaration was received by the Department.

(6) Where the person referred to in paragraph (3) does not make a declaration in accordance with paragraph (4), any requirement or prohibition imposed by these Regulations on a client shall also be imposed on him but only to the extent it relates to any matter within his authority.

5. Requirements on developer

(1) This regulation applies where the project is carried out for a domestic client and the client enters into an arrangement with a person (in this regulation called "the developer") who carries on a trade, business or other undertaking (whether for profit or not) in connection with which—

(a) land or an interest in land is granted or transferred to the client; and

- (b) the developer undertakes that construction work will be carried out on the land; and
- (c) following the construction work, the land will include premises which, as intended by the client, will be occupied as a residence.

(2) Where this regulation applies, with effect from the time the client enters into the arrangement referred to in paragraph (1), the requirements of regulations 6 and 8 to 12 shall apply to the developer as if he were the client.

6. Appointments of planning supervisor and principal contractor

- (1) Subject to paragraph (6)(b), every client shall appoint—
 - (a) a planning supervisor; and
 - (b) a principal contractor,

in respect of each project.

(2) The client shall not appoint as principal contractor any person who is not a contractor.

(3) The planning supervisor shall be appointed as soon as is practicable after the client has such information about the project and the construction work involved in it as will enable him to comply with the requirements imposed on him by regulations 8(1) and 9(1).

(4) The principal contractor shall be appointed as soon as is practicable after the client has such information about the project and the construction work involved in it as will enable the client to comply with the requirements imposed on him by regulations 8(3) and 9(3) when making an arrangement with a contractor to manage construction work where such arrangement consists of the appointment of the principal contractor.

(5) The appointments mentioned in paragraph (1) shall be terminated, changed or renewed as necessary to ensure that those appointments remain filled at all times until the end of the construction phase.

- (6) Paragraph (1) does not prevent—
 - (a) the appointment of the same person as planning supervisor and as principal contractor provided that person is competent to carry out the functions under these Regulations of both appointments; or
 - (b) the appointment of the client as planning supervisor or as principal contractor or as both, provided the client is competent to perform the relevant functions under these Regulations.

7. Notification of project

(1) The planning supervisor shall ensure that notice of the project in respect of which he is appointed is given to the Department in accordance with paragraphs (2) to (4)

unless the planning supervisor has reasonable grounds for believing that the project is not notifiable.

(2) Any notice required by paragraph (1) shall be given in writing or in such other manner as the Department may from time to time approve in writing and shall contain the particulars specified in paragraph (3) or, where applicable, paragraph (4) and shall be given at the times specified in those paragraphs.

(3) Notice containing such of the particulars specified in Schedule 1 as are known or can reasonably be ascertained shall be given as soon as is practicable after the appointment of the planning supervisor.

(4) Where any particulars specified in Schedule 1 have not been notified under paragraph (3), notice of such particulars shall be given as soon as is practicable after the appointment of the principal contractor and, in any event, before the start of construction work.

(5) Where a project is carried out for a domestic client then, except where regulation 5 applies, every contractor shall ensure that notice of the project is given to the Department in accordance with paragraph (6) unless the contractor has reasonable grounds for believing that the project is not notifiable.

(6) Any notice required by paragraph (5) shall—

(a) be in writing or such other manner as the Department may from time to time approve in writing;

(b) contain such of the particulars specified in Schedule 1 as are relevant to the project; and

(c) be given before the contractor or any person at work under his control starts to carry out construction work.

8. Competence of planning supervisor, designers and contractors

(1) No client shall appoint any person as planning supervisor in respect of a project unless the client is reasonably satisfied that the person he intends to appoint has the competence to perform the functions of planning supervisor under these Regulations in respect of that project.

(2) No person shall arrange for a designer to prepare a design unless he is reasonably satisfied that the designer has the competence to prepare that design.

(3) No person shall arrange for a contractor to carry out or manage construction work unless he is reasonably satisfied that the contractor has the competence to carry out or, as the case may be, manage, that construction work.

(4) Any reference in this regulation to a person having competence shall extend only to his competence—

(a) to perform any requirement; and

(b) to conduct his undertaking without contravening any prohibition, imposed on him by or under any of the relevant statutory provisions.

9. Provision for health and safety

(1) No client shall appoint any person as planning supervisor in respect of a project unless the client is reasonably satisfied that the person he intends to appoint has allocated or, as appropriate, will allocate adequate resources to enable him to perform the functions of planning supervisor under these Regulations in respect of that project.

(2) No person shall arrange for a designer to prepare a design unless he is reasonably satisfied that the designer has allocated or, as appropriate, will allocate adequate resources to enable the designer to comply with regulation 13.

(3) No person shall arrange for a contractor to carry out or manage construction work unless he is reasonably satisfied that the contractor has allocated or, as appropriate, will allocate adequate resources to enable the contractor to comply with the requirements and prohibitions imposed on him by or under the relevant statutory provisions.

10. Start of construction phase

Every client shall ensure, so far as is reasonably practicable, that the construction phase of any project does not start unless a health and safety plan complying with regulation 15(4) has been prepared in respect of that project.

11. Client to ensure information is available

(1) Every client shall ensure that the planning supervisor for any project carried out for the client is provided (as soon as is reasonably practicable but in any event before the commencement of the work to which the information relates) with all information mentioned in paragraph (2) about the state or condition of any premises at or on which construction work included or intended to be included in the project is or is intended to be carried out.

(2) The information required to be provided by paragraph (1) is information which is relevant to the functions of the planning supervisor under these Regulations and which the client has or could ascertain by making enquiries which it is reasonable for a person in his position to make.

12. Client to ensure health and safety file is available for inspection

(1) Every client shall take such steps as it is reasonable for a person in his position to take to ensure that the information in any health and safety file which has been delivered to him is kept available for inspection by any person who may need information

in the file for the purpose of complying with the requirements and prohibitions imposed on him by or under the relevant statutory provisions.

(2) It shall be sufficient compliance with paragraph (1) by a client who disposes of his entire interest in the structure if he delivers the health and safety file for the structure to the person who acquires his interest in the structure and ensures such person is aware of the nature and purpose of the health and safety file.

13. Requirements on designer

(1) Except where a design is prepared in-house, no employer shall cause or permit any employee of his to prepare for him, and no self-employed person shall prepare, a design in respect of any project unless he has taken reasonable steps to ensure that the client for that project is aware of the duties to which the client is subject by virtue of these Regulations and of any practical guidance issued from time to time by the Department with respect to the requirements of these Regulations.

- (2) Every designer shall—
- (a) ensure that any design he prepares and which he is aware will be used for the purposes of construction work includes among the design considerations adequate regard to the need—
 - (i) to avoid foreseeable risks to the health and safety of any person at work carrying out construction work or cleaning work in or on the structure at any time, or of any person who may be affected by the work of such a person at work,
 - (ii) to combat at source risks to the health and safety of any person at work carrying out construction work or cleaning work in or on the structure at any time, or of any person who may be affected by the work of such a person at work, and
 - (iii) to give priority to measures which will protect all persons at work who may carry out construction work or cleaning work at any time and all persons who may be affected by the work of such persons at work over measures which only protect each person carrying out such work;
 - (b) ensure that the design includes adequate information about any aspect of the project or structure or materials (including articles or substances) which might affect the health or safety of any person at work carrying out construction work or cleaning work in or on the structure at any time or of any person who may be affected by the work of such a person at work; and
 - (c) co-operate with the planning supervisor and with any other designer who is preparing any design in connection with the same project or structure so far as is necessary to enable each of them to comply with the requirements and prohibitions placed on him in relation to the project by or under the relevant statutory provisions.

(3) Sub-paragraphs (a) and (b) of paragraph (2) shall require the design to include only the matters referred to therein to the extent that it is reasonable to expect the designer to address them at the time the design is prepared and to the extent that it is otherwise reasonably practicable to do so.

14. Requirements on planning supervisor

The planning supervisor appointed for any project shall—

- (a) ensure, so far as is reasonably practicable, that the design of any structure comprised in the project—
 - (i) includes among the design considerations adequate regard to the needs specified in heads (i) to iii) of regulation 13(2)(a), and
 - (ii) includes adequate information as specified in regulation 13(2)(b);
- (b) take such steps as it is reasonable for a person in his position to take to ensure co-operation between designers so far as is necessary to enable each designer to comply with the requirements placed on him by regulation 13;
- (c) be in a position to give adequate advice to
 - (i) any client and any contractor with a view to enabling each of them to comply with regulations 8(2) and 9(2), and
 - (ii) any client with a view to enabling him to comply with regulations 8(3), 9(3) and 10;
- (d) ensure that a health and safety file is prepared in respect of each structure comprised in the project containing—
 - (i) information included with the design by virtue of regulation 13(2)(b), and
 - (ii) any other information relating to the project which it is reasonably foreseeable will be necessary to ensure the health and safety of any person at work who is carrying out or will carry out construction work or cleaning work in or on the structure or of any person who may be affected by the work of such a person at work;
- (e) review, amend or add to the health and safety file prepared by virtue of sub-paragraph (d) of this regulation as necessary to ensure that it contains the information mentioned in that sub-paragraph when it is delivered to the client in accordance with sub-paragraph (f) of this regulation; and
- (f) ensure that, on the completion of construction work on each structure comprised in the project, the health and safety file in respect of that structure is delivered to the client.

15. Requirements relating to the health and safety plan

(1) The planning supervisor appointed for any project shall ensure that a health and safety plan in respect of the project has been prepared no later than the time specified in paragraph (2) and contains the information specified in paragraph (3).

(2) The time when the health and safety plan is required by paragraph (1) to be prepared is such time as will enable the health and safety plan to be provided to any contractor before arrangements are made for the contractor to carry out or manage construction work.

(3) The information required by paragraph (1) to be contained in the health and safety plan is—

- (a) a general description of the construction work comprised in the project;
- (b) details of the time within which it is intended that the project, and any intermediate stages, will be completed;
- (c) details of risks to the health or safety of any person carrying out the construction work so far as such risks are known to the planning supervisor or are reasonably foreseeable;
- (d) any other information which the planning supervisor knows or could ascertain by making reasonable enquiries and which it would be necessary for any contractor to have if he wished to show—
 - (i) that he has the competence on which any person is required to be reasonably satisfied by regulation 8, or
 - (ii) that he has allocated or, as appropriate, will allocate, adequate resources on which any person is required to be reasonably satisfied by regulation 9;
- (e) such information as the planning supervisor knows or could ascertain by making reasonable enquiries and which it is reasonable for the planning supervisor to expect the principal contractor to need in order for him to comply with the requirement imposed on him by paragraph (4); and
- (f) such information as the planning supervisor knows or could ascertain by making reasonable enquiries and which it would be reasonable for any contractor to know in order to understand how he can comply with any requirements placed upon him in respect of welfare by or under the relevant statutory provisions.

(4) The principal contractor shall take such measures as it is reasonable for a person in his position to take to ensure that the health and safety plan contains until the end of the construction phase the following features:

- (a) arrangements for the project (including, where necessary, for management of construction work and monitoring of compliance with the relevant statutory provisions) which will ensure, so far as is reasonably practicable, the health and safety of all persons at work carrying out the construction

work and all persons who may be affected by the work of such persons at work, taking account of—

- (i) risks involved in the construction work,
 - (ii) any activity specified in paragraph (5); and
- (b) sufficient information about arrangements for the welfare of persons at work by virtue of the project to enable any contractor to understand how he can comply with any requirements placed upon him in respect of welfare by or under the relevant statutory provisions.
- (5) An activity is an activity referred to in paragraph (4)(a)(ii) if—
- (a) it is an activity of persons at work; and
 - (b) it is carried out in or on the premises where construction work is or will be carried out; and
 - (c) either—
 - (i) the activity may affect the health or safety of persons at work carrying out the construction work or persons who may be affected by the work of such persons at work, or
 - (ii) the health or safety of the persons at work carrying out the activity may be affected by the work of persons at work carrying out the construction work.

16. Requirements on and powers of principal contractor

- (1) The principal contractor appointed for any project shall—
 - (a) take reasonable steps to ensure co-operation between all contractors (whether they are sharing the construction site for the purposes of regulation 9 of the Management Regulations or otherwise) so far as is necessary to enable each of those contractors to comply with the requirements and prohibitions imposed on him by or under the relevant statutory provisions relating to the construction work;
 - (b) ensure, so far as is reasonably practicable, that every contractor, and every employee at work in connection with the project complies with any rules contained in the health and safety plan;
 - (c) take reasonable steps to ensure that only authorised persons are allowed into any premises or part of premises where construction work is being carried out;
 - (d) ensure that the particulars required to be in any notice given under regulation 7 are displayed in a readable condition in a position where they can be read by any person at work on construction work in connection with the project; and

- (e) promptly provide the planning supervisor with any information which—
 - (i) is in the possession of the principal contractor or which he could ascertain by making reasonable enquiries of a contractor, and
 - (ii) it is reasonable to believe the planning supervisor would include in the health and safety file in order to comply with the requirements imposed on him in respect thereof in regulation 14, and
 - (iii) is not in the possession of the planning supervisor.
- (2) The principal contractor may—
 - (a) give reasonable directions to any contractor so far as is necessary to enable the principal contractor to comply with his duties under these Regulations;
 - (b) include in the health and safety plan rules for the management of the construction work which are reasonably required for the purposes of health and safety.
- (3) Any rules contained in the health and safety plan shall be in writing and shall be brought to the attention of persons who may be affected by them.

17. Information and training

(1) The principal contractor appointed for any project shall ensure, so far as is reasonably practicable, that every contractor is provided with comprehensible information on the risks to the health or safety of that contractor or of any employees or other persons under the control of that contractor arising out of or in connection with the construction work.

(2) The principal contractor shall ensure, so far as is reasonably practicable, that every contractor who is an employer provides any of his employees at work carrying out the construction work with—

- (a) any information which the employer is required to provide to those employees in respect of that work by virtue of regulation 9 of the Management Regulations and
- (b) any health and safety training which the employer is required to provide to those employees in respect of that work by virtue of regulation 12(2)(b) of the Management Regulations.

18. Advice from, and views of, persons at work

The principal contractor shall—

- (a) ensure that employees and self-employed persons at work on the construction work are able to discuss, and offer advice to him on, matters connected with the project which it can reasonably be foreseen will affect their health or safety; and

- (b) ensure that there are arrangements for the co-ordination of the views of employees at work on construction work, or of their representatives, where necessary for reasons of health and safety having regard to the nature of the construction work and the size of the premises where the construction work is carried out.

19. Requirements and prohibitions on contractors

- (1) Every contractor shall, in relation to the project—
 - (a) co-operate with the principal contractor so far as is necessary to enable each of them to comply with his duties under the relevant statutory provisions;
 - (b) so far as is reasonably practicable, promptly provide the principal contractor with any information (including any relevant part of any risk assessment in his possession or control made by virtue of the Management Regulations which might affect the health or safety of any person at work carrying out the construction work or of any person who may be affected by the work of such a person at work or which might justify a review of the health and safety plan;
 - (c) comply with any directions of the principal contractor given to him under regulation 16(2)(a);
 - (d) comply with any rules applicable to him in the health and safety plan;
 - (e) promptly provide the principal contractor with the information in relation to any death, injury, condition or dangerous occurrence which the contractor is required to notify or report by virtue of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985⁴ as it has effect in the Island⁵; and
 - (f) promptly provide the principal contractor with any information which—
 - (i) is in the possession of the contractor or which he could ascertain by making reasonable enquiries of persons under his control, and
 - (ii) it is reasonable to believe the principal contractor would provide to the planning supervisor in order to comply with the requirements imposed on the principal contractor in respect thereof by regulation 16(1)(e), and
 - (iii) which is not in the possession of the principal contractor.
- (2) No employer shall cause or permit any employee of his to work on construction work unless the employer has been provided with the information mentioned in paragraph (4).

⁴ SI 1985/2023

⁵ GC 518/92

(3) No self-employed person shall work on construction work unless he has been provided with the information mentioned in paragraph (4).

(4) The information referred to in paragraphs (2) and (3) is—

(a) the name of the planning supervisor for the project;

(b) the name of the principal contractor for the project; and

(c) the contents of the health and safety plan or such part of it as is relevant to the construction work which any such employee or, as the case may be, which the self-employed person, is to carry out.

(5) It shall be a defence in any proceedings for contravention of paragraph (2) or (3) for the employer or self-employed person to show that he made all reasonable enquiries and reasonably believed—

(a) that he had been provided with the information mentioned in paragraph (4);
or

(b) that, by virtue of any provision in regulation 3, this regulation did not apply to the construction work.

20. Exclusion of civil liability

Breach of a duty imposed by these Regulations, other than those imposed by regulation 10 and regulation 16(1)(c), shall not confer a right of action in any civil proceedings.

21. Enforcement

These Regulations shall be executed and enforced by the Department.

22. Transitional provisions

Schedule 2 shall have effect with respect to projects which have started, but the construction phase of which has not ended, when these Regulations come into force.

SCHEDULE 1
PARTICULARS TO BE NOTIFIED TO THE DEPARTMENT

1. Date of forwarding.
2. Exact address of the construction site.
3. Name and address of the client or clients (see note).
4. Type of project.
5. Name and address of the planning supervisor.
6. A declaration signed by or on behalf of the planning supervisor that he has been appointed as such.
7. Name and address of the principal contractor.
8. A declaration signed by or on behalf of the principal contractor that he has been appointed as such.
9. Date planned for start of the construction phase.
10. Planned duration of the construction phase.
11. Estimated maximum number of people at work on the construction site.
12. Planned number of contractors on the construction site.
13. Name and address of any contractor or contractors already chosen.

Note: Where a declaration has been made in accordance with regulation 4(4), item 3 above refers to the client or clients on the basis that that declaration has not yet taken effect.

SCHEDULE 2
TRANSITIONAL PROVISIONS

1. Regulation 6 shall not apply in respect of a project the construction phase of which started before the coming into force of these Regulations.
2. Where at the coming into force of these Regulations the time specified in regulation 6(3) for the appointment of the planning supervisor has passed, the time for appointing the planning supervisor by virtue of regulation 6(1)(a) shall be as soon as is practicable after the coming into force of these Regulations.
3. Where at the coming into force of these Regulations the time specified in regulation 6(4) for the appointment of the principal contractor has passed, the time for appointing the principal contractor by virtue of regulation 6(1)(b) shall be as soon as is practicable after the coming into force of these Regulations.
4. Regulation 10 and regulation 11 shall not apply to any project the construction phase of which started before the coming into force of these Regulations.
5. Regulation 13 and regulation 14(a) shall not apply in respect of any design the preparation of which started before the coming into force of these Regulations.

MADE 14th December, 2003

Pamela M. Crowe

Minister for Local Government and the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which are based on similar regulations in force in the United Kingdom (S.I. 1994/3140), impose requirements with respect to design and management aspects of "construction work" (defined in reg. 2(1)). The obligations are imposed variously on the "client", the "developer", the "designer", the "planning supervisor", the "principal contractor" and "contractors" (see regs. 2(1) and 4), and on employers and self-employed persons. A developer carrying out a project for a domestic client in specified circumstances must comply with certain obligations as if he were the client (reg. 5).

The Regulations do not apply to: -

- (i) projects (other than for demolition or dismantling of a structure) in respect of which no more than 4 persons are carrying out construction work at any one time; and
- (ii) construction work forming part of a project carried out for a domestic client (except where reg.5 applies) (see reg.3).

A client must appoint a planning supervisor and a principal contractor (reg.6), and the planning supervisor must ensure that specified particulars of a notifiable project are notified to the Department (reg.7 and Schedule 1). No-one may appoint a planning supervisor, or arrange for a designer to prepare a design or a contractor to carry out or manage construction work, unless he is reasonably satisfied that they are competent (reg.8) and that the resources allocated or to be allocated to them are adequate (reg.9).

The construction phase of a project must not begin unless a health and safety plan has been prepared in respect of it (reg.10). The client must provide the planning supervisor with information about the state or condition of specified premises (reg.11), and make information in a health and safety file available for inspection (reg.12).

A designer must not prepare a design unless the client is aware of his duties under the Regulations and of the requirements of any practical guidance issued by the Department, and must ensure that his designs take health and safety matters into account (reg.13). A planning supervisor is placed under specified duties in respect of the design of structures, co-operation between designers, advice to clients and contractors and the preparation, revision and delivery to the client of a health and safety file in relation to any structure (reg.14). The planning supervisor is required to prepare the health and safety plan, and the principal contractor must ensure that it contains certain health and safety information (reg.15). The principal contractor is given specified powers and duties in respect to co-operation between contractors, compliance with health and safety plan, and other health and safety measures during construction (regulations.16 to 18). Other contractors are required to co-operate with the principal contractor to enable him to comply with his duties, and further duties are imposed on employers and self-employed persons (reg.19).

A breach of duty under the Regulations does not create a right of action in civil proceedings, except in the case of reg. 10 (failure to prepare a health and safety plan) or reg. 16(1)(c) (admission of unauthorised persons on site) (reg. 20). The Department of Local Government and the Environment is to enforce the Regulations (reg.21). Transitional provision is made for projects in existence on the commencement of the Regulations (reg.22 and schedule 2).

Contravention of the regulations is an offence under section 33(1) of the Health and Safety at Work etc. Act 1974, the maximum penalty for which, on summary conviction, is a fine not exceeding £20,000 or, on conviction on indictment, a fine of any amount.