



NFDC

Construction (Design & Management) Regulations 2015

DRG 12:2015



National Federation of Demolition Contractors
Voice of the Global Demolition Industry

INTRODUCTION

The National Federation of Demolition Contractors (NFDC) is represented on the British Standards subcommittee which prepares the code of practice for demolition (BS6187) and is, along with the Institute of Demolition Engineers (IDE), the Voice of the Global Demolition Industry.

Founded in 1941 to help spearhead London's post-Blitz clean-up campaign, the NFDC's members are responsible for more than 90% of all demolition that takes place in the UK. Today, the NFDC is committed to establishing safe working practices for its members and to represent their interests in areas such as training, safety, the environment, waste management, industry guidance, legislative changes and codes of practice.

However, in researching and preparing the information contained within this document the NFDC cannot be held responsible for its subsequent use, nor for any errors or omissions it may contain.

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1. Introduction

CDM 2015 comes into force on 6 April 2015; the introduction of these regulations is seen as possibly the biggest change in construction Health and Safety since 2007.

CDM 2015 is now the main set of regulations for managing the Health, Safety and Welfare of construction projects. The former A.C.o.P. L144 that accompanied previous regulation will be substituted with L153 and other industry provided guidance.

The new CDM 2015 Regulations place responsibility for managing the Health and Safety of a construction project on three (3) main duty holders: the Client, Principal Designer and Principal Contractor.

In general the regulations have been reduced from 48 to 39; with the regulations formally numbered 25-44 and 46-48 being renumbered 16-35 and 36-38 respectively with Regulation 45 being removed outright.

Note

The content of these regulations remain unaltered from the previous CDM 2007 including the former regulation 29 Demolition and Dismantling which is copied verbatim and now stands as regulation 20.

2. Transitional Arrangements

There will be a transitional period that will run for six months from 6 April 2015 to 6 October 2015.

For projects which span the 6 April 2015 commencement date; with the construction phase not yet started and the Client has not yet appointed a CDM coordinator, the Client must appoint a Principal Designer as soon as it is practicable.

If the CDM coordinator has already been appointed, a Principal Designer must be appointed to replace the CDM coordinator by 6 October 2015, unless the project comes to an end before then.

In the period it takes to appoint the Principal Designer, the appointed CDM coordinator should comply with the duties contained in Schedule 4 of the new regulations.

These duties reflect the existing requirements under CDM 2007 for the CDM coordinator rather than requiring CDM coordinators to act as Principal Designers, a role for which they may not be equipped.

3. Competence

Competence as previously assessed via Appendix 4 of CDM 2007 is replaced by a more integrated application of competence assessment comprised of the component parts of skills, knowledge, training, experience and organisational capability in the area of appointment.

Reliance shall not be placed on an industry certification card or similar being presented to them as evidence that a worker has the necessary qualities. Nationally recognized qualifications (such as NVQs and SVQs) will provide contractors with assurance that the holder has the necessary skills, knowledge, training and experience to carry out a task. The CCDO scheme meets this on the completion of a VQ. In due course SMART CARD will show proof of this and identify the operative allied training also undertaken to show robustness.

The Client will need to ensure those who are to be appointed can demonstrate appropriate information, instruction, training and supervision.

When looking to make an appointment of role, enquiries shall be made about the organisational capability to carry out the work involved. In addition to carrying out pre-qualification checks on organisations, those responsible for making appointments shall also check that the party has sufficient experience and a good track record in managing the Health and Safety risks involved in similar projects. These checks are to be carried out, ideally, at the final stage after pre-qualification checks have been completed and before appointments are made. When considering the requirements of those that are to be appointed, due weight should be given to membership of an established professional institution or body i.e. NFDC, IDE. Designers and contractors must be able to demonstrate they have the necessary Health and Safety skills, knowledge and experience to carry out the work. This is the case for individuals working either for larger organisations or for themselves.

Note

Those making appointments may become more reliant on Prequalification Questionnaires i.e. Publicly Available Specification 91, 2013 (PAS 91).

Note

Designers or contractors can use the services of an independent (third party) assessor to assess their organisational capability such as Safety Schemes in Procurement Forum (SSIP). The law does not require any individual or business to use such services.

4. Client

Summary of Client Duties

- To make, maintain and review the project management arrangements, suitable for persons with CDM duties to ensure that construction work is carried out without risk and compliant with welfare requirements;
- To supply all **Pre-Construction Information** - provide to each Designer involved in the design of a structure and each contractor who is or might be engaged by the Client. The Client has the main duty for providing Pre-construction information needed by Designers and contractors for their work i.e. Refurbishment & Demolition survey, site investigations ecology, structural drawings etc. This must be provided as soon as practicable to each and every Designer and contractor who is bidding for work on the project or has already been appointed. For projects involving more than one contractor, the Client should expect the Principal Designer to help in bringing the Pre-Construction information together and issue it to all other Designers and all contractors;
- To draw up the **Construction Phase Plan** - ensure the Construction Phase Plan drawn up before the construction phase begins, for projects involving more than one contractor, it is the Principal Contractor's duty to ensure the plan is prepared and that it is proportionate to the size and nature of the works involved, it is workable and realistic, for single contractor projects, the contractor must ensure the plan is prepared;
- To notify the HSE - if site construction work is a) scheduled to last longer than 30 working days and have 20 or more workers, working simultaneously at any point in the project or b) to exceed 500 person days.
- Notify as soon as is practicable before the construction phase begins;
- Review all contractor training etc. - ensure the necessary information, instruction and training received along with the appropriate supervision;
- Ensure cooperation with others - cooperate with any other person at the site or an adjoining site to enable others
- Appoint a **Principal Designer** - to carry out the role and responsibilities as described below; if the appointment is not made then the Client must fulfil the role;
- Appoint **Principal Contractor** - to carry out the role and responsibilities as described below; if the appointment is not made then the Client must fulfil the role;
- Ensure compliance by **Principal Designer** and **Principal Contractor**;
- Ensure Principal Designer prepares an appropriate Health and Safety file. A Health and Safety file is only required for projects involving more than one contractor prepared by the Principal Designer for the project.

Clients who only occasionally commission construction work are not required to take an active role in managing the work due to their inexperience, however, the Client is required to ensure suitable arrangements for managing the project focusing on the needs of the particular project and be proportionate to the size and complexity of the project and risks arising from the work. The Client is accountable for the impact their decisions and approach have on Health, Safety and Welfare on the project. A Client must make suitable 'arrangements' for managing a project.

The key approach to identifying the measures necessary to control the risks to Health and Safety in a particular project is to:

- Manage the risk to Health and Safety by applying the general principal of prevention
- Appoint the right people and organisations at the right time,
- Make sure everyone has the information, instruction, training and supervision they require to carry out their roles in a way that secures Health and Safety,
- Ensuring duty-holders are co-operating and communicating with each other and co-ordinating their work correctly
- Consult workers and engage with them to promote and develop effective measure to secure health, safety and welfare.

5.1 Principal Designer

The CDM-C function is removed with a new role of Principal Designer for Health and Safety of the Pre-Construction Stage to be appointed (Principal Designer). This is at the very earliest stage of a project, from concept design through to planning the delivery of the demolition and construction work.

This new function of Principal Designer has lesser involvement with the Client thus Clients will lose their main CDM advisor which previously would have been the CDMC. The Client will now be required to ensure the PD and the PC complies with their duties throughout the project. The Principal Designer must be appointed in writing by the Client to carry out their duties and can be a third party out with the existing design team members.

Summary of Principal Designers Duties

Plan, manage, monitor and coordinate - the Pre-Construction phase taking into account the general principles of prevention to ensure:

- Safety and health - project is carried out without risks to health or safety;
- Pre-Construction information (PCI) - provide assistance to the Client in the PCI preparation;
- Foreseeable risks - identification, elimination, or control of foreseeable risks to any person;
- Cooperation - of all persons working on the project;
- Cooperation with others - cooperate with any other person at the site or an adjoining site to enable others perform their duties etc.;

The Principal Designer is anyone with the requisite skills and experience to carry out the role. i.e. the Principal Designer must have: -

- A technical knowledge of the demolition and construction industry relevant to the project,
- The understanding and skills to manage and coordinate the Pre-Construction phase, including any design work carried out after construction begins, and
- Where the Principal Designer is an organisation they should have the organisational capability to carry out the role as well as the necessary skills, knowledge and experience that individual Designers must have.

The Principal Designer must plan, manage and monitor the Pre-Construction phase and coordinate matters relating to 'Health and Safety' during the Pre-Construction phase to ensure that, so far as is reasonably practicable, the project, so it is carried out without risk to health or safety. They must:

- Take into account the general principles of prevention and, where relevant, the content of any construction phase plan and Health and Safety file.
- Ensure all Designers (as described within the regulations – page 26, article 72 and outlined in the definition's section of this document) comply with their duties in regulations.
- Ensure that all persons working in relation to the Pre-Construction phase cooperate with the Client, the Principal Designer and each other,
- Assist the Client in the provision of the Pre-Construction information (PCI) required by regulations so far as it is within the Principal Designer's control,
- Provide Pre-Construction information, promptly and in a convenient form, to every Designer and contractor appointed, or being considered for appointment, to the project,
- Liaise with the Principal Contractor for the duration of the Principal Designer's appointment and share with the Principal Contractor information relevant to the planning, management and monitoring of the construction phase and the coordination of Health and Safety matters during the construction phase, and
- Must prepare / revise as necessary a suitable Health and Safety file for the project.

Note

General Principles of Prevention (GPP) can be summarised by following the hierarchy:

- Avoiding risks where possible,
- Evaluating those risks that cannot be avoided, and
- Putting in place proportionate measure that control them at source.

5.2 Designer

A Designer is an organisation or individual, who:

- Prepare or modify a design for a construction project (including the design of the demolition method, temporary works); or
- Arrange for, or instruct someone else to do so.
- The term 'design' includes drawings, design details, specifications, bills of quantity, calculations, risk assessments & prepared for the purpose of a design.

Designers include:

- Architects, Consulting Engineers, Demolition Engineers, Quantity Surveyors, Interior Designers, Temporary Works Engineers, Chartered Surveyors, Technicians or anyone who specifies or alters a design or method of work.
- They can include others if they carry out design work such as Principal Contractor, and specialist contractors e.g. a Demolition Engineer providing written arrangements for demolition sequence as per Regulation 20.
- The person who selects products for use in construction is a Designer and must take account of Health and Safety issues arising from its use
- Local authority or government officials may give advice and instruction on designs meeting statutory requirements e.g. the Building Regulations, but this does not make them Designers.

Summary of Designers Duties:

- Client awareness - do not commence work in relation to a project unless satisfied that the Client is aware of their duties;
- Elimination of risk - take account of the general principals of prevention and the PCI when preparing or modifying a design to eliminate foreseeable risks
- Risk reduction and control - if not possible to eliminate take steps to reduce and control risks through the subsequent design process;
- Residual risk - provide information about those risks to the PD and ensure information is included in the Health and Safety file; and
- Provide information - with the design about aspects of the design of the structure or its construction or maintenance to adequately assist others to comply.

A Designer must not commence work in relation to a project unless satisfied that the Client is aware of the duties owed by the Client under these Regulations. The Designer's duties always apply. When preparing or modifying a design the Designer must take into account the general principles of prevention and any Pre-Construction information to eliminate, so far as is reasonably practicable, foreseeable risks to the health or safety of any person:

If it is not possible to eliminate these risks, the Designer must, so far as is reasonably practicable:

- a) Take steps to reduce or, if that is not possible, control the risks through the subsequent design process,
- b) Provide information about those risks to the Principal Designer and
- c) Ensure appropriate information is included in the Health and Safety file.

A Designer must take all reasonable steps to provide, with the design, sufficient information about the design, construction or maintenance of the structure, to adequately assist the Client, other Designers and contractors to comply with their duties under these regulations.

Note

Where commercial Clients become actively involved in designing in relation to their project, they may also be considered to be designers.

6.1 Principal Contractor

The Principal Designer must be appointed in writing by the Client to carry out their duties.

A Principal Contractor is an organisation or individual who co-ordinates the demolition/construction phase of the project involving more than one contractor. They must also plan, manage, monitor and coordinate - the demolition/construction phase taking into account the general principles of prevention to ensure:

- Ensure the project is carried out without risks to health or safety,
- Draw up, as soon as practicable, prior to setting up site, a construction phase plan and ensure it is managed, monitored, updated, reviewed and revised so continues to be sufficient,
- Implement the relevant legal requirements to ensure that employers etc. apply the general principles of prevention in a consistent manner and follow the Construction Phase Plan;
- Ensure Contractors have the necessary information, instruction and training received and appropriate supervision to comply,
- Cooperate with any other person at the site or an adjoining site to enable others perform their duties etc.;
- Display the site rules as laid out in the Construction Phase Plan
- Ensure that the welfare facilities comply with the regulations throughout the construction phase,
- Liaise with the Principle Designer for the duration of the project and in particular regarding any information which is required to prepare the Health and Safety file or may affect the planning and management of the Pre-Construction phase,
- The Health and Safety file is appropriately updated, reviewed and revised;
- Provide an adequate site induction,
- Prevent unauthorised access,
- Have arrangements in place which will enable the Principal Contractor and site workers to co-operate effectively in promoting and developing measures to ensure the Health and Safety at Work and checking the effectiveness of these measures,
- Workforce consultation in good time on matters connected with the project which may affect their health, safety or welfare, and
- Ensure that workers can inspect and take copies of certain workers related information.

6.2 Contractor

A contractor is someone who employs or engages demolition/construction workers. A contractor can be a business, self-employed worker or sole trader who carries out construction activities as part of their business. The duties of a contractor are more or less unchanged from CDM 2007, they should plan, manage and monitor the way in which construction work is carried out in a way which ensures that:

- Project work is carried out without risks to health or safety,
- if there is no Principal Contractor ensure draw up, as soon as practicable, prior to setting up site, a construction phase plan and ensure it is managed, monitored, updated, reviewed and revised so continues to be sufficient,
- Ensure workers have the necessary information, instruction and training received and appropriate supervision to comply
- Provide to workers any information and instruction so that construction work can be carried out without risk,
- Arrange and conduct site inductions where not already provided by the Principal Contractor;
- Establish procedures to be followed in the event of serious and imminent danger to Health and Safety,
- Provide information on matters identified by the risk assessment under Regulation 3 of the Management of Health and Safety Regulations 1999:
- Provide employees with any Health and Safety training required.

A contractor must not begin work on a construction site unless reasonable steps have been undertaken to:

- a) Prevent unauthorised access,
- b) Provide welfare facilities that comply with schedule 2 of the Regulations throughout the construction phase;
- c) Comply with any direction and stipulations put forward by the Principal Designer or Principal Contractor;
- d) Ensure the Client is aware of their duties.

7. Domestic Clients

A domestic Client is someone for who the project is being undertaken, which is not in the way of furtherance of a business of said Client.

A domestic Client is not required to carry out the duties placed on commercial Clients in the regulations, where the project involves:

- Only one contractor on site, the Client duties must instead be carried out by the contractor. The contractor must then carry out the Client duties as well as the duties they already have as contractor for the project.
- More than one contractor on site, the Client duties must instead be carried out by the Principal Contractor as well as the duties they already have as Principal Contractor. If the domestic Client has not appointed a Principal Contractor then the duties of the Client will be carried out by the contractor in control of the construction work.

Construction work does not always follow on immediately after design work is completed and as such a domestic Client has the flexibility of agreeing (in writing) that the Designer coordinates and manages the project. Where no such agreement is made, then the Principal Contractor will automatically take over the project assume these responsibilities.

8. Construction Phase Plan

Every construction project will now require a construction phase plan to be drawn up, prior to the commencement of works of site. The construction phase plan must record the following:

- Health and Safety arrangements for the entire construction phase.
- The site rules;
- Control measures where a worker could be put at specific risk. These measures are listed in schedule 3 of the Regulations.

The plan must be relevant to the project and be proportionate to the scale and complexity of the project and its risks.

Note

A construction phase plan is now required for all demolition works whether it is a notifiable project or not.

9. Health and Safety File

The file must contain information about the current project that is likely to be needed to ensure Health and Safety during any subsequent work such as maintenance, cleaning, refurbishment or demolition.

Information on the following should be considered for inclusion:

- A brief description of the work carried out;
- Any hazards that have not been eliminated through the design and construction processes, and how they have been addressed (e.g. surveys or other information concerning asbestos or contaminated land);
- Key structural principles (e.g. bracing, sources of substantial stored energy – including pre- or post-tensioned members) and safe working loads for floors and roofs;
- Any hazardous materials used (e.g. lead paints and special coatings);
- Information regarding the removal or dismantling of installed plant and equipment (e.g. any special arrangements for lifting such equipment);
- Health and Safety information about equipment provided for cleaning or maintaining the structure;
- The nature, location and markings of significant services, including underground cables; gas supply equipment; fire-fighting services etc.;
- Information and as-built drawings of the building, its plant and equipment (e.g. the means of safe access to and from service voids and fire doors).

There should be enough detail to allow the likely risks to be identified and addressed by those carrying out the work and be proportionate to those risks.

Information must be in a convenient form, clear, concise and easily understandable. The Principal Designer is responsible for preparing the Health and Safety file and should liaise closely with the Client to agree the structure and content of the file as soon as practicable after appointment. In preparing the file, the Principal Designer should expect the Client to provide any Health and Safety file that may exist from an earlier project. The Client should expect the Principal Designer to pass them the Health and Safety file upon completion. In cases where the Principal Designer has left the project before completion, it will be for the Principal Contractor to pass the file to the Client.

Where it is not possible to eliminate Health and Safety risks when preparing or modifying designs, Designers must ensure appropriate information is included in the Health and Safety file about the reasonably practicable steps they have taken to reduce or control those risks.

Note

The file should not include things that will be of no help when planning future construction work such as Pre-Construction information, the construction phase plan, contractual documents, safety method statements etc.

10. Notification

A project is notifiable by the Client when:

- a) It is planned to last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project;
- b) Exceeds 500 person days.

Notification of a project is conducted via the CDM section of the HSE website via an electronic F10. This also allows amendment and resubmission of F10 forms.

Note

A day is taken as 8 hours.

A working day is where work has been planned to take place.

Statutory Holidays and weekends do not count if work is not carried out during those times.

A person day is the number of hours worked by an individual and includes shift work.

In any work day, where shift works are ongoing, there will be more than one person day in a working day. A person day includes any other length of time worked that is less than a full day.

11. Summary of CDM 2015

A legal obligation for duty holders to provide information, instruction, training and supervision, which replaces the duty to assess competence.

Construction phase co-ordination duties to remain with the Principal Contractor. But the current proposals do not make any provision for an independent role, as currently provided by the CDMC, to protect the Client.

Replacement of the CDM Co-ordinator role with a Principal Designer, legally responsible for Health and Safety in the design team. The role can be fulfilled by an individual or organisation. Replacement of the ACOP with tailored guidance note L153.

Creation of Client duties for domestic projects which can be transferred to the Principal Designer and/or Principal Contractor.

Client must ensure that the Principal Designer complies with their duties. Requires the Client to be informed and aware of their role and responsibility.

- Client must ensure that the Principal Contractor complies with their duties.
- The notification trigger (the point at which an F10 needs to be submitted to HSE) has been amended to 30 days and more than 20 persons on site or 500 person days.
- The Client will be responsible for notifying HSE of a project (F10 notification).
- The Client will be required to appoint a Principal Contractor and/or Principal Designer if there will be more than one contractor on site.
- A construction phase plan will be required for all projects.



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