

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 (l), 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(11); or
- (b) in Scotland the enforcing authority within the meaning of section 61 of the Fire (Scotland) Act 2005 (12),

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(13).

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.

(3) Where a client appoints any planning supervisor or principal contractor already appointed under regulation 6 of the Construction (Design and Management) Regulations 1994(14) (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.

Signed by authority of the Secretary of State for Work and Pensions.

Bill McKenzie
Parliamentary Under Secretary of State,
Department for Work and Pensions

7th February 2007

SCHEDULE 1 Regulation 21(1), (2) and (4)
PARTICULARS TO BE NOTIFIED TO THE EXECUTIVE (or Office of Rail Regulation)

1. Date of forwarding.
2. Exact address of the construction site.
3. The name of the local authority where the site is located.
4. A brief description of the project and the construction work which it includes.
5. Contact details of the client (name, address, telephone number and any e-mail address).
6. Contact details of the CDM co-ordinator (name, address, telephone number and any e-mail address).
7. Contact details of the principal contractor (name, address, telephone number and any e-mail address).
8. Date planned for the start of the construction phase.
9. The time allowed by the client to the principal contractor referred to in regulation 15(b) for planning and preparation for construction work.
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 already appointed.
14. Name and address of any designer already engaged.
15. A declaration signed by or on behalf of the client that he is aware of his duties under these Regulations.

SCHEDULE 2 Regulations 9(1)(b), 13(7) and 22
(1)(c)
WELFARE FACILITIES

Sanitary conveniences

1. Suitable and sufficient sanitary conveniences shall be provided or made available at readily accessible places. So far as is reasonably practicable, rooms containing sanitary conveniences shall be adequately ventilated and lit.
2. So far as is reasonably practicable, sanitary conveniences and the rooms containing them shall be kept in a clean and orderly condition.
3. Separate rooms containing sanitary conveniences shall be provided for men and women, except where and so far as each convenience is in a separate room, the door of which is capable of being secured from the inside.

Washing facilities

4. Suitable and sufficient washing facilities, including showers if required by the nature of the work or for health reasons, shall so far as is reasonably practicable be provided or made available at readily accessible places.

5. Washing facilities shall be provided—

- (a) in the immediate vicinity of every sanitary convenience, whether or not provided elsewhere; and
- (b) in the vicinity of any changing rooms required by paragraph 14 whether or not provided elsewhere.

6. Washing facilities shall include—

- (a) a supply of clean hot and cold, or warm, water (which shall be running water so far as is reasonably practicable);
- (b) soap or other suitable means of cleaning; and
- (c) towels or other suitable means of drying.

7. Rooms containing washing facilities shall be sufficiently ventilated and lit.

8. Washing facilities and the rooms containing them shall be kept in a clean and orderly condition.

9. Subject to paragraph 10 below, separate washing facilities shall be provided for men and women, except where and so far as they are provided in a room the door of which is capable of being secured from inside and the facilities in each such room are intended to be used by only one person at a time.

10. Paragraph 9 above shall not apply to facilities which are provided for washing hands, forearms and face only.

Drinking water

11. An adequate supply of wholesome drinking water shall be provided or made available at readily accessible and suitable places.

12. Every supply of drinking water shall be conspicuously marked by an appropriate sign where necessary for reasons of health and safety.

13. Where a supply of drinking water is provided, there shall also be provided a sufficient number of suitable cups or other drinking vessels unless the supply of drinking water is in a jet from which persons can drink easily.

Changing rooms and lockers

14.—(1) Suitable and sufficient changing rooms shall be provided or made available at readily accessible places if—

- (a) a worker has to wear special clothing for the purposes of his work; and
- (b) he cannot, for reasons of health or propriety, be expected to change elsewhere,

being separate rooms for, or separate use of rooms by, men and women where necessary for reasons of propriety.

(2) Changing rooms shall—

- (a) be provided with seating; and
- (b) include, where necessary, facilities to enable a person to dry any such special clothing and his own clothing and personal effects.

(3) Suitable and sufficient facilities shall, where necessary, be provided or made available at readily accessible places to enable persons to lock away—

- (a) any such special clothing which is not taken home;
- (b) their own clothing which is not worn during working hours; and
- (c) their personal effects.

Facilities for rest

15.—(1) Suitable and sufficient rest rooms or rest areas shall be provided or made available at readily

accessible places.

(2) Rest rooms and rest areas shall—

- (a) include suitable arrangements to protect non-smokers from discomfort caused by tobacco smoke;
- (b) be equipped with an adequate number of tables and adequate seating with backs for the number of persons at work likely to use them at any one time;
- (c) where necessary, include suitable facilities for any person at work who is a pregnant woman or nursing mother to rest lying down;
- (d) include suitable arrangements to ensure that meals can be prepared and eaten;
- (e) include the means for boiling water; and
- (f) be maintained at an appropriate temperature.

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- (11) 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. [Back \[11\]](#)
 - (12) [2005 asp 5](#). Section 61(9) was amended by S.I. 2005/2060 article 2(1) and (4)(a) and (b). [Back \[12\]](#)
 - (13) 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). [Back \[13\]](#)
 - (14) [S.I. 1994/3140](#), amended by S.I. 2006/557; there are other amending instruments but none is relevant. [Back \[14\]](#)