

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations revoke and replace the Construction (Design and Management) Regulations 1994 (S.I. 1994/3140) (Parts 2 and 3) and revoke and re-enact, with modifications, the Construction (Health, Safety and Welfare) Regulations 1996 (S.I. 1996/1592) (Part 4). They implement in Great Britain the requirements of Directive 92/57/EEC (OJ No L245, 26.8.92, p.6) ("the Directive") on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), except certain requirements which are implemented in the Work at Height Regulations 2005 (S.I. 2005/735). These Regulations do not apply the client's duties in the Directive to persons who act otherwise than in the course or furtherance of a trade, business, or other undertaking (regulation 2(1)). They apply the client's duties to make appointments and to ensure that a safety and health plan is drawn up only to projects that meet the threshold for notification to the Health and Safety Executive (or to the Office of Rail Regulation (regulation 21(4))).

2. Parts 2 and 3 set out duties in respect of the planning, management and monitoring of health, safety and welfare in construction projects and of the co-ordination of the performance of these duties by dutyholders. Duties applicable to all projects, including duties of clients, designers and contractors, are set out in Part 2. These include a duty on every person working under the control of another to report anything that he is aware is likely to endanger health or safety (regulation 5(2)).

3. Part 3 imposes additional duties on clients, designers and contractors (regulations 14 to 19) where the project is notifiable, defined as likely to involve more than 30 days or 500 person days of construction work (regulation 2(3)). These include the duty of the client to appoint a CDM co-ordinator and a principal contractor (regulation 14), whose particular duties are then set out (regulations 20 to 24).

4. The changes which Parts 2 and 3 make in comparison with the Construction (Design and Management) Regulations 1994 include the following—

- (a) All dutyholders under the Regulations are to co-operate with any other person at work on the same or any adjoining site in enabling one another to perform their duties (regulation 5).
- (b) All dutyholders under the Regulations are to co-ordinate their activities to ensure so far as is reasonably practicable the health and safety of persons carrying out or affected by the construction work (regulation 6).
- (c) All dutyholders under the Regulations are to take account of the general principles of prevention in Schedule 1 to the Management of Health and Safety at Work Regulations 1999 (S.I. 1999/3242) in the performance of their duties and in the carrying out of the construction work (regulation 7).
- (d) The client is under a duty to take reasonable steps to ensure that arrangements for managing the project that are suitable to ensure that construction work can be carried out so far as is reasonably practicable without risk to health and safety are made and maintained by dutyholders (regulation 9).
- (e) The threshold for notification of a construction project is now also the point at which duties including the making of appointments by the client and the duties of the persons so appointed arise (regulations 14 to 24).
- (f) The former appointment of a planning supervisor is now replaced by that of the CDM co-ordinator with enhanced duties, in particular in relation to assisting the client and to the co-ordination of health and safety measures (regulations 20 and 21).
- (g) The former duty of the planning supervisor to prepare a health and safety plan has been replaced by that of the principal contractor to prepare a construction phase plan (regulation 23).

5. Part 4 sets out duties applicable to all contractors or to others controlling the way in which construction work is carried out (regulation 25(1) and (2)) in respect of measures to be taken to ensure specified aspects of health and safety and to prevent danger from a number of specified hazards.

6. Civil liability is now restricted under these Regulations only in respect of the Part 2 and 3 duties, for which there is civil liability only to employees, except in respect of the duties concerning welfare facilities and to prevent access by any unauthorised person, and of the client's duty concerning the construction phase plan, for which liability is unrestricted (regulation 45).

7. A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic Advisers Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy of the transposition note in relation to implementation of the Directive can be obtained from the Health and Safety Executive, International Branch at the same address. Copies of both these documents have been placed in the Library of each House of Parliament.