

Briefing Note -

CONSTRUCTION DESIGN & MANAGEMENT REGULATIONS 2015



Introduction

In this Briefing Note we review the management of construction work as defined by the Regulations and is in response to a number of recent requests from clients for further information and advice.

Note: although domestic clients are mentioned in the Regulations, they are not addressed in this briefing note.

The Regulations establish a number of dutyholders:

Clients (for whom the project will be carried out)

- Must appoint other Dutyholders
- Ensure sufficient time and resources are allocated to the project
- Preconstruction information is prepared and provided to other Dutyholders
- The Principal Designer and Principal Contractor carry out their duties
- Welfare facilities are provided
- Construction work does not commence until a Construction Phase Plan (CPP) is available
- Notify the HSE if the project is 'notifiable', the Principal Contractor can complete this on behalf of the Client
- Review the policy regularly to determine if the policy is working and whether any changes need to be made.

Designers (prepare or modify designs)

- Must eliminate, reduce or control foreseeable risks arising from:
 - ◆ Construction
 - ◆ Future maintenance and use of the building

Principal Designers (they manage and appoint other designers)

- Plan, manage, monitor and coordinate H&S in the preconstruction phase of a project
- Includes
 - ◆ Identifying, eliminating or controlling foreseeable risks
 - ◆ Ensuring Designers carry out their duties
 - ◆ Prepare and provide relevant information to other Dutyholders
 - ◆ Prepare the health and safety file

Principal Contractors (appointed by the client when there is more than one contractor involved)

- Plan, manage, monitor and coordinate H&S in the preconstruction phase of a project
- Liaise with Client and Principal Designer
- Prepare Construction Phase Plan
- Organise cooperation between contractors and coordinate their work
- Suitable site inductions
- Prevent unauthorised access
- Consult with workers
- Provide welfare facilities

Contractors (complete the actual construction work)

- Plan, manage and monitor their work
- Comply with direction from Principal Contractor and Principal Designer

Scope

Many companies/contractors often misunderstand the scope of the regulations and consider themselves out of scope as they do not construct or demolish buildings. It should be noted that far reaching additional activities covered by the regulations include:

"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".

Note:

All construction work is regulated by the CDM 2015 Regulations.

The Regulator can impose penalties for failing to meet these Regulations as well as any failings defined in the Health and Safety at Work Act 1974.

Other Regulations

There are many other regulations, guidance documents and British Standards that must be considered for construction work dependent upon the nature of the work to be completed. As an example:

- Management of Health and Safety at Work Regulations 1999
- Manual Handling Operations Regulations 1992
- Control of Asbestos Regulations 2012
- Provision and Use of Work Regulations 1998 etc.

Hence the need to ensure you have access to competent advice (see below).

Notification

Notification of the project must be made to the HSE (using an F10 form) if the project:

- Last longer than 30 working days and have more than 20 workers working simultaneously at any point of the project; or
- Exceed 500 person days.

Competent Advice

There is a requirement within the Regulations that competent construction advice is required for construction projects.

As an example, it is likely that a competent person will hold minimum of NEBOSH Construction Certificate (or equivalent) to be able to provide competent advice.

For complex work, a higher level of competence and experience would be expected.

Guidance L153

Authoritative guidance on methods by which compliance with the CDM Regulations 2015 can be achieved is detailed in the following HSE guidance found on their web site.



Scan the QR Code to obtain a copy.



Case Study

Kier fined £1.5m for PC failings that led to trench collapse

Note: at the time of the accident, the principal contractor was May Gurney, but it was acquired by Kier after the accident, in July 2013. From then on it became known as Kier MG.

Kier MG had subcontracted the installation work to John Henry, who subsequently further sub-contracted the work to Lawless Civils. Mr Talbot was a self-employed contractor hired by Lawless Civils.



John Henry failed to inform Kier MG of the appointment of Lawless Civils. Lawless Civils was an approved contractor of Kier MG but not approved for this type of specialist excavation work.

Before work took started, the Lincoln County Council sent Kier and John Henry information warning that ground conditions were poor. Boreholes were dug and samples taken along the street in Holbeach. The council said that the conditions meant that a specialist trench support system would be required.

A worker had his leg broken in six places when the unshored trench he was working in collapsed. His right ankle was left permanently damaged and he was off work for more than a year.

Kier MG was principal contractor on a project to build new storm drains for Lincolnshire County Council. The work was subcontracted to John Henry & Sons which in turn subcontracted it to Lawless Civils without informing Kier.

Lawless Civils employed a supervisor at the Holbeach site who had no relevant experience, training or qualifications. He was also marked as a first aider, despite having no first aid training.

A three-metre-long trench box was installed in the excavation to protect those working in it but it was half the length of the pipes being installed (six metres). There were no other forms of protection such as trench sheeting.

The worker was trying to level a pipe section for a second time, when the sides of the trench collapsed and trapped him. As he stepped outside the box to level the pipes, the trench gave way.

Lincoln Crown Court heard that after the accident, John Henry & Sons backdated the method statement for the work to give the impression that it was signed by the workers before the collapse.

Kier MG (formerly known as May Gurney) pleaded guilty to breaching. It was ordered to pay £1.5 m and £23,327 costs.

Perverting the Course of Justice

Lincoln Crown Court also heard that after the accident John Henry & Sons backdated the method statement for the work to give the impression that it was signed by the workers before the collapse. This was considered by the Court to be completely unacceptable and underhand. The Court found that failings which contributed to the accident were systemic and extensive, but that the attempt to cover up their failings in such a dishonest manner substantially aggravated the case.

John Henry & Sons (Civil Engineers) denied a charge of breaching s 3(1) of the Health and Safety at Work Act but was found guilty at trial. It was fined £550,000 plus £166,217 costs

Lawless Civils pleaded guilty to breaching s 3(1) of the HSW Act. It was fined £40,500 and ordered to pay £53,346.59.



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