

SUMMARY OF PROPOSED CHANGES TO THE CDM REGULATIONS

Interpreted by Callsafe Services Limited – 2nd May 2006

The proposals for the new CDM regulations were electronically issued in a consultative document on the HSE website; 31st March 2005, for consultation until 29th July 2005.

<http://consultations.hse.gov.uk/consult.ti/conregs/consultationHome>

The following is Callsafe Services Limited's interpretation of the consultative document, various notices, guidances, press articles and HSE presentations regarding the proposed changes to the Construction (Design and Management) Regulations 1994 (amended 2000) and updates received from the HSE. This includes the latest draft regulations and Approved Code of Practice (April 2006).

Format

- The new regulations will have an Approved Code of Practice (ACoP) produced by the HSE, 'Managing Health and Safety in Construction'. Sector-specific guidance is proposed to be written by the industry and endorsed by the HSE. A working group has been set up within CONIAC to administer and guide the production of this guidance.
- The new regulations are produced in 3 parts:
 - Part 1 Interpretation and application
 - Part 2 Regulations applying to ALL construction work (ex CHSWR)
 - Part 3 Additional requirements for notifiable projects.

Planning and management

- Clients to ensure suitable management arrangements. (This is interpreted to mean that the Client will perform site H&S audits and inspections.)
- The 'Client's Agent' is removed from the regulations, so the client cannot transfer the client's duties to another body under contract.
- Co-ordinator appointed to help client and co-ordinate design phase.
- Client will assume the duties of 'Co-ordinator' and/or 'Principal Contractor' if no appointments are made.
- Minimum competence requirements for co-ordinators, designers and contractors as organisations and individuals are included within the ACoP, Appendix 4.

Communication

- The new regulations place great importance on getting the right information to the right people at the right time, e.g. health and safety file, surveys, designers' comments, information pack, plans, etc.
- Avoiding bureaucracy, don't bury important information!
- The pre-tender health and safety plan is to be removed as a requirement, but the necessary information still needs to be provided to tendering contractors and constructors prior to work. This will be called the 'Pre construction Information Pack'.
- The project notification to include the identity of designers and may be performed electronically.

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Scope

- Covers all construction work and all work needs to be properly managed
- If notifiable:
 - appoint a co-ordinator and a principal contractor.
 - written construction health and safety plan.
- Projects involving demolition, but are not notifiable will still require a written health and safety plan.
- Projects which are not notifiable, but include high risk tasks/situations, such as significant structural alteration, deep excavations, working adjacent to/over/in water, etc. will also require a written construction health and safety plan.
- The existing criteria for apply CDM to a project, where 5 or more persons perform construction work on the project at any time during the project does not appear within the draft for the new regulations. This has caused some concern and some significant criticism of the proposals as it appears to lower the health and safety provisions on the smaller projects on which a high proportion of accidents and ill-health occur. This may change.

Changes to the Planning Supervisor Role

Required due to the opinion, without consensus, that the planning supervisor has not been as effective as originally envisaged.

- The title is proposed to be changed to 'Co-ordinator', although the industry tends to favour 'Project Safety Co-ordinator' or 'CDM Co-ordinator'.
- The 'Co-ordinator' was proposed to have 'functions', but the HSE have subsequently agreed to the 'Co-ordinator' having duties.
- Specific requirement to support and educate the client. (This support may include performing site H&S audits and inspections on behalf of the client).
- Required to assist the client in the clients duties to appoint/engage competent and adequately resourced parties to the project, and to establish the sufficiency of time allowed within the project programme.
- Coordination of design to include a buildability/maintainability/usability review. (The 'Co-ordinator' would have to understand the functional issues, such as the Building Regulations.)
- Required to review the Construction Health and Safety Plan on behalf of the client.
- Be more specifically responsible for the gathering and communication of information (site/design), i.e. assisting the client.
- Early appointment is to be made mandatory.
- The ACoP specifies minimum qualifications/experience to perform the role.

Changes/Clarifications to the Designers' Role

The opinion is prevalent that the designers have not achieved full compliance with the regulations.

- Clarify regulation 13 to make the requirements more specific and less subjective. (Will be regulation 14 in the new regulations.)

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- Added legal responsibility under the regulations to design for safe use to comply with the Workplace Regulations and Building Regulations, in addition to designing for safe construction, maintenance, repair and cleaning.
- Accept balance between health and safety and other reasonable design considerations, e.g. functionality, aesthetics, environmental, etc. This is a matter for informed professional judgement.
- Avoid risks to constructors, cleaners, maintainers, users or any other person affected by their designs by eliminating and reducing risks in their design and focusing on collective safeguards, e.g. barriers not fall arrest harnesses.
- Designers must not perform any design, except preliminary designs, until they have confirmed the appointment of the Co-ordinator and the notification of the project.
- Where design is performed outside Great Britain, the person commissioning the design, or if they are not GB based the Client, must verify that the design complies with the designer's duties.

Clarifications of the Principal Contractor's Role

- The Principal Contractor must consult with the workforce on health and safety matters.
- The Principal Contractor must 'implement' the Construction Health and Safety Plan.
- The Principal Contractor must make available to the workforce key documents, e.g. health and safety file information, site surveys, designers' information, risk assessments and the Health and Safety Plan
- Principal Contractor plans and manages the construction phase, but Contractors manage their own work, including inspections and audits. Principal Contractor is to ensure compliance.
- Contractors must not commence construction work until they have confirmed the appointment of the Co-ordinator and Principal Contractor, and the notification of the project.

Construction (Health, Safety and Welfare) Regulations 1996

- Minimal changes to standards proposed, although the Work at Height Regulations 2005 have revoked the working at height parts.
- Remainder to be merged with CDM. These are included in Part 2 of the new regulations.
- Welfare seating to have backs!

Timetable

November 2004	CONIAC <i>agreed</i> draft Consultative Document (CD)
March 2005	Proposals to HSC
31 March 2005	Published CD (4 months consultation period + 1month extension)
Autumn 2006?	New Regulations and ACoP issued.
Spring 2007?	Sector Specific Guidance issued.
1 April 2007?	New Regulations and ACoP in force.