

Major Project Construction Contract

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Amendment 1 Issued April 2007

CDM Regulations

Clause number and heading	Action
Clause 1	'CDM Regulations': Delete '1994' and insert '2007'; 'Principal Contractor': Delete '6(1)(b)' and insert '14(2)'; Delete the definition of 'Planning Supervisor'; Insert the following new definition: 'CDM Co-ordinator: the person appointed for the Project in accordance with regulation 14(1) of the CDM Regulations.'
Clause 7-2	Delete 'Planning Supervisor' and insert 'CDM Co-ordinator' (twice); Delete 'of his appointment'; Delete '7(1)' and insert '21'
Clause 7-3	Delete 'Planning Supervisor' and insert 'CDM Co-ordinator'
Contract Particulars, 7-2	Delete 'Planning Supervisor' and insert 'CDM Co-ordinator'

Guidance Notes to Amendment 1

CDM Regulations

General

The Construction (Design and Management) Regulations 2007 replace the 1994 Regulations with effect from 6 April 2007. They also incorporate the provisions of the Construction (Health, Safety and Welfare) Regulations 1996 not incorporated in the Work at Height Regulations 2005, i.e. health and safety duties on site, welfare facilities and inspection report particulars. The latter provisions are contained in Part 4 and Schedules 2 and 3 respectively.

As a result, the 2007 Regulations impose on clients, designers, contractors (including sub-contractors at all levels), and on others controlling the way in which any construction work is carried out (e.g. construction or project managers and contract administrators), a wider and more coherent set of health, safety and welfare duties.

As part of the greater emphasis placed on the need to plan and on communication and co-ordination, the functions of the Planning Supervisor are replaced by those of a CDM co-ordinator. The Health and Safety file provisions remain. Amendment 1 makes reference to the 2007 Regulations and incorporates the changed term.

Part 2 – General duties

Part 2 of the 2007 Regulations (regulations 4 to 13) sets out the duties that apply to all projects, commencing with duties that apply to clients, designers and contractors alike. These include the requirement of competence and the duty to check appointees, a general duty to co-operate and seek co-operation with others concerned (now expressly extended to adjoining construction sites) and duties for all, so far as reasonably practicable, both to co-ordinate their activities with others and to ensure the application of general principles of prevention (specified in the Management of Health and Safety at Work Regulations 1998).

Part 2 then sets out specific duties for clients, designers and contractors respectively. In the case of clients, these include a duty to ensure that suitable arrangements are in place for the management of health, safety and welfare aspects of the project, including the allocation of sufficient time for construction phase planning and preparation for health and safety purposes. This is coupled with obligations to supply information on the site and its proposed use and to specify the minimum period to be allowed to contractors for planning and preparation before construction starts.

Main contractors are under similar obligations with respect to their sub-contractors and so on down the chain. Part 2 also sets out in detail contractors' information and training obligations with respect to their workers and an obligation, so far as is practicable, to make Schedule 2 welfare provision. The commencement of work by any contractor is conditional (inter alia) upon reasonable steps having been taken to prevent unauthorised site access.

Part 3 – Notifiable Project duties

Part 3 (regulations 14 to 24) relates to notifiable projects. The client is required to appoint the CDM co-ordinator as soon as is practicable after initial design work or other preparation has begun – further design work is conditional on that appointment, as is construction, which (in addition to access restrictions) is also conditional on the appointment of the principal contractor, production of the construction phase plan (previously Health and Safety Plan) and notification to the Health and Safety Executive.

The duties of the CDM co-ordinator and principal contractor are slightly more widely drawn than in the 1994 Regulations and the principal contractor's responsibilities now include ensuring the provision of Schedule 2 welfare facilities. Part 3 imposes certain additional duties on each participant both with respect to these appointees and generally. These in general follow naturally from the Part 2 obligations and the functions and duties of the two appointees but there is now a duty on all contractors promptly to supply to the principal contractor any information relevant to health and safety, as well as that identified for inclusion in the Health and Safety file.