

Interpretation & Guidance of the CDM Regulations 2015



1.0 WHAT IS CDM 2015?

Since 1994 there has been a requirement for construction professionals and workers to adhere to various versions of the Construction Design and Management Regulations which were designed to reduce accidents and promote a safer working environment in Construction.

The Construction (Design and Management) Regulations 2015 (“**CDM 2015**”) replaced the previous CDM 2007 Regulations on the 6th of April 2015. There are significant changes from the CDM 2007 regulations which now places greater emphasis on the client role for whom a construction project is carried out. The previous CDM co-ordinator role has been replaced with the requirement to appoint a principle designer and, where more than one contractor is involved, a principle contractor.

Under CDM 2015 there is a requirement for those dutyholders¹ appointing others, (clients, principle designers and principle contractors) to take reasonable steps to satisfy themselves that the appointee has the skill, knowledge and experience necessary to fulfil the role appointed to undertake. Penalties for noncompliance when carrying out construction projects which fall under CDM 2015 regulations is a criminal offence punishable with unlimited fines and for individual’s in serious breach of the regulations, imprisonment.

CDM 2015 now captures domestic construction work to reduce risk in this area which previously was unregulated and applies in Great Britain².

2.0 WHEN DOES CDM 2015 APPLY?

CDM 2015 APPLIES TO ALL CONSTRUCTION WORK

It is intended to include construction work and includes all planning, design, management or other work involved in a project until the end of the construction phase.

Organisations or individuals can carry out the role of more than one duty holder, provided that are sufficiently capable. The role itself is not specifically defined within CDM 2015

Also applies to premises and activities outside Great Britain to which sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of articles 9 and 11(1)(a) of the Health and Safety at Work etc. Act 1974 Order 2013

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²Also applies to premises and activities outside Great Britain to which sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of articles 9 and 11(1)(a) of the Health and Safety at Work etc. Act 1974 Order 2013

³Refer to Section 4

3.0 WHAT IS CONSTRUCTION WORK?

It can be noted that Regulation 2 of CDM 2015 provides a complete list of definitions and is inclusive with only very specific items falling outside of its remit. We consider it notable that maintenance is deemed construction work and hence we recommend that all work undertaken should, to avoid any liability falling upon the client, take consideration of CDM 2015.

CONSTRUCTION WORK	NOT CONSTRUCTION WORK
<ul style="list-style-type: none"> ▪ The carrying out of any building, civil engineering or engineering construction work and includes the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances), decommissioning, demolition or dismantling of a structure³; ▪ The preparation for an intended structure, including site clearance, exploration, investigation (but not site survey), and excavation, and the clearance or preparation of the site or structure for use or occupation at its conclusion; ▪ The assembly on site of prefabricated elements to form a structure or the disassembly on site of prefabricated elements which, immediately before such disassembly, formed a structure; ▪ The removal of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure; ▪ 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. 	<p>From the 2015 Regulations</p> <ul style="list-style-type: none"> • The exploration for or extraction of mineral resources or activities preparatory thereto carried out at a place where such exploration or extraction is carried out; <p>From the Approved Code of Practice 2007 (believed to be carried forward to the 2015 regulations)</p> <ul style="list-style-type: none"> • Putting up and taking down marquees and similar tents designed to be re-erected at various locations; • Tree planting and general horticultural work; • Positioning and removal of lightweight movable partitions, such as those used to divide open-plan offices or to create exhibition stands and displays; • Surveying – this includes taking levels, making measurements and examining a structure for faults; • Work to or on vessels such as ships and mobile offshore installations; • Off-site manufacture of items for later use in construction work (for example roof trusses, pre-cast concrete panels, bathroom pods and similar pre-fabricated elements and components); • Fabrication of elements which will form parts of offshore installations; • The construction of fixed offshore oil and gas installations at the place where they will be used.

4.0 WHAT IS A STRUCTURE?

“Structure” means:

- a) any building, timber, masonry, metal or reinforced concrete structure, railway line or siding, tramway line, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipe-line, cable, aqueduct, sewer, sewage works, gasholder, road, airfield, sea defence works, river works, drainage works, earth works, lagoon, dam, wall, caisson, mast, tower, pylon, underground tank, earth retaining structure or structure designed to preserve or alter any natural feature, fixed plant and any structure similar to the foregoing; or
- b) any formwork, false-work, scaffold or other structure designed or used to provide support or means of access during construction work, and any reference to a structure includes a part of a structure.

It can also be noted that any reference to a Structure includes part of a structure.

5.0 WHEN IS A PROJECT NOTIFIABLE?

A project is notifiable if the construction work on a construction site is scheduled to:

- a) last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project; or
- b) exceed 500 person days, of construction work.

Where a project is notifiable the client must give notice in writing to the HSE as soon as is practicable before the construction phase begins.

6.0 WHAT DO CLIENTS NEED TO DO?

The key elements that a client needs to ensure is that:

- Apply the principles of prevention: avoid risks wherever possible; elevate risks that cannot be avoided; and put in place appropriate control measures that control them.
- Appointing the right people at the right time

- Making sure everyone has the information, instruction, training and supervision they need to carry out their jobs
- Ensuring that Health and Safety is engaged throughout the project

CDM 2015 seeks to make the client responsible and hence accountable for the impact of their decisions on the health, safety and welfare on any project.

6.1 Appointment of the Principal Designer and Principal Contractor

Where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working on a project at any time, the client must appoint in writing:

- a) A designer with control over the pre-construction phase as “Principal Designer”; and
- b) A Contractor as “Principal Contractor”.

It is the client's obligation to ensure that that Principal Designer and the Principal Contractor have the skills, knowledge and experience, and capability to fulfil that role. We have implemented a procedure of auditing contractor's to ensure they meet minimum Health and Safety compliance standards and we would recommend that each contractor/principal contractor that you appoint is audited to discharge your obligations.

Where there is only likely to be a single contractor involved in the project it still falls under CDM 2015. The contractor is still obligated to undertake the same primary roles as the Principal Contractor, just without the co-ordination aspects. Whilst on these very small projects there is no obligation for the Client to appoint a Principal Designer, unless the client wishes to take on all of the responsibilities associated with the role of designer, we recommend an appointment is still made. Effectively the same obligations apply as on larger projects.

The appointments must be made as soon as is practical and before the construction works commence. If the Client doesn't appoint the Principal Designer and/or Principal Contractor the Client will be solely responsible for the things that they should have done. Non conformance with CDM 2015 can lead to prosecution and fines from the HSE.



6.2 Ensure suitable arrangements

CDM 2015 does not expect clients to be experts, but it does place an obligation upon them to make suitable arrangements relevant to the particular project which should be proportionate to the size of the project and the risks involved.

Our interpretation is that even on the the very smallest and simplest of projects the CDM 2015 regulations are likely to apply and hence the client duties are required. Whilst the HSE Guidance on CDM 2015 suggests a proportionate approach it does not dissolve or suggest a reduction in those client duties. The practical implication is therefore that all of the steps are still necessary irrespective of project size, but that the application of each requirement can be simplified for smaller projects.

6.3 Ensure existing information is made available

The client retains the main duty for this and it cannot easily be discharged upon another duty holder. CDM 2015 does not seek to place any further burden upon property owners but it is necessary that all Health and Safety information relating to the property is made available early in the process.

If you are unsure of the obligations in this regard we would be pleased to discuss this with you and assist you in arranging for and compiling a property Health and Safety file.

6.4 Ensure sufficient Welfare facilities

On larger projects principal contractors are familiar with the requirements of providing welfare facilities in accordance with the statutory requirements and good site practice. However, CDM 2015 applies to all construction work and hence it is a requirement that suitable toilets, washing facilities, drinking water, changing rooms and rest facilities are provided.

On small maintenance projects we understand that this can be a difficult burden to adequately discharge and hence we would recommend advising your tradesman that they should arrange for suitable facilities within their works vans. Alternatively where the works are occurring within accommodation areas you may be able to discharge this requirement by using the existing facilities, with the owners permission of course.

7.0 SUMMARY OF THE ROLES AND DUTIES UNDER CDM 2015

CDM Duty holders – Who are they?	Summary of Role/Main Duties
<p>Clients – are organisations or individuals for whom a construction project is carried out that is done as part of a business.</p>	<p>Make suitable arrangements for managing a project. This includes making sure:</p> <ul style="list-style-type: none"> ▪ Other duty holders are appointed; ▪ Check the duty holders have the necessary skills ▪ Sufficient time and resources are allocated; ▪ Arrangements are maintained throughout the project. ▪ The principal designer and principal contractor carry out their duties; ▪ The construction phase plan is drawn up prior to the commencement of the construction phase; ▪ The principal designer prepares the health and safety file; ▪ Relevant information is prepared and provided to other duty holders; ▪ Welfare facilities are provided, and maintained throughout the project. ▪ Give notice to the HSE if the project is notifiable.
<p>Domestic Clients – are people who have construction work carried out on their own home by others, or the home of a family member that is not done as part of a business, whether for profit or not.</p> <p>Note: if the household carries out the work themselves it is classed as DIY and CDM 2015 does not apply.</p>	<p>Domestic clients are in scope of CDM 2015, but their duties as a client are normally transferred to:</p> <ul style="list-style-type: none"> ▪ The contractor, on a single contractor project; OR ▪ The principal contractor, on a project involving more than one contractor. <p>However, the domestic client can choose to have a written agreement with the principal designer to carry out the client duties⁷.</p>
<p>Designers – are those, organisations or individuals who as part of a business, prepare or modify designs for a building, product or system relating to construction work.</p>	<p>When preparing or modifying designs, to eliminate, reduce or control foreseeable risks that may arise during:</p> <ul style="list-style-type: none"> ▪ Construction; and ▪ The maintenance and use of a building once it is built. <p>Provide information to other members of the project team to help them fulfil their duties.</p>

⁴Known as Fees of Intervention

⁵Regulation 4 of CDM 2015

⁶Refer to the HSE publication Provision of Welfare Facilities During Construction Work

⁷Regulation 7 allows for the pass-through of obligations to other duty holders

CDM Duty holders – Who are they?	Summary of Role/Main Duties
<p>Principal Designers – are designers appointed by the client in projects involving more than one contractor. They can be an organisation or an individual with sufficient knowledge, experience and ability to carry out the role.</p>	<p>A designer must not commence work in relation to a project unless satisfied that the client is aware of their duties. Plan, manage, monitor and coordinate health and safety in the pre-construction phase of a project.</p> <p>This includes:</p> <ul style="list-style-type: none"> ▪ Identifying, eliminating or controlling foreseeable risks; ▪ Ensuring designers carry out their duties; ▪ Prepare and provide relevant information to other duty holders. ▪ Ensure that all persons working in relation to the pre-construction phase cooperate with the client, the principal designer and each other. ▪ Liaise with the principal contractor to help in the planning, management, monitoring and coordination of the construction phase. ▪ During the pre-construction phase, prepare a Health & Safety file appropriate for the characteristics of the project. ▪ Liaise with the principal contractor to arrange for the provision of the Health & Safety file and ensure that it is appropriately received updated and revised. ▪ At the end of the project, pass the Health and Safety file to the client.
<p>Principal Contractor – are contractors appointed by the client to coordinate the construction phase of a project where it involves more than one contractor.</p>	<p>Plan, manage, monitor and coordinate the construction phase of a project. This includes:</p> <ul style="list-style-type: none"> ▪ Taking into account the general principles of prevention. ▪ Liaising with the client and principal designer; ▪ Preparing the construction phase plan; ▪ Review, update and revise the construction phase plan, as required throughout the project. ▪ Organising cooperation between contractors and coordinating their work. ▪ Liaising with the principal designer for the duration of the principal designer’s appointment. ▪ Ensuring that employers and self employed persons follow the construction phase plan. <p>Ensure:</p> <ul style="list-style-type: none"> ▪ Suitable site inductions are provided; ▪ Reasonable steps are taken to prevent unauthorised access; ▪ Welfare facilities are provided; ▪ Workers are consulted and engaged in securing their Health and Safety.

CDM Duty holders – Who are they?	Summary of Role/Main Duties
<p>Contractors – are those who do the actual construction work and can be either an individual or a company.</p>	<p>Plan, manage and monitor construction work under their control so that it is carried out without risks to Health and Safety;</p> <p>For projects involving more than one contractor, coordinate their activities with others in the project team – in particular, comply with directions given to them by the principal designer or principal contractor;</p> <p>For single-contractor projects, prepare a construction phase plan.</p> <p>Ensure that people under their control have the necessary skills, expertise and provide workers with appropriate supervision, instructions and information.</p>
<p>Workers – are the people who work for or under the control of contractors on a construction site.</p>	<p>They must:</p> <ul style="list-style-type: none"> ▪ Be consulted about matters which affect their health, safety and welfare; ▪ Take care of their own Health and Safety and others who may be affected by their actions; ▪ Report anything they see which is likely to endanger either their own or others’ Health and Safety; ▪ Cooperate with their employer, fellow workers, contractors and other duty holders.

8.0 The Bennington Green Services

We are able to undertake the role of Principal Designer where we have a design input, or client advisor on smaller projects where the design has already been prepared. We can also discuss with you providing some of the client duties such as the monitoring of the principal contractors performance and its Health & Safety compliance.

For further advice regarding any aspect of CDM 2015 and your project requirements please contact Bennington Green (Chartered Surveyors) on 01202 766584 or email your enquiry to secretary@benningtongreen.co.uk.

Further information can be found on; www.hse.gov.uk/ and the full regulations on; www.legislation.gov.uk/uksi/2015/51/contents/made