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The new CDM Regulations 2007

Construction briefing
April 2007

On 6 April 2007, the Construction (Design and Management) Regulations 2007 (2007 Regulations) replaced both the Construction (Design and Management) Regulations 1994 and the Construction (Health, Safety and Welfare) Regulations 1996.

The 2007 Regulations aim to simplify and clarify duties and roles of individuals with a view to securing improved health, safety and welfare performance. The Regulations apply to all current and post 6 April 2007 projects and are supported by an Approved Code of Practice (ACOP) which provides guidance on the practical application of the Regulations.

KEY POINTS

- The "client" definition has been widened and the 2007 Regulations may now apply to funders and landlords procuring work through developers.
- More than one person may fulfil the definition of client and elections will have to be made. Regardless of an election, limited obligations will apply to all "clients" falling within the definition.
- Clients can no longer nominate agents to act as client for projects starting on or after 6 April 2007. Transitional provisions enable agents on existing projects to continue to act provided they accept the duties of client under the 2007 Regulations.
- A client which specifies materials will constitute a designer for the purpose of the 2007 Regulations.
- A client is obliged to provide health and safety information, ensure arrangements are in place to minimise risk, to ensure that suitable welfare facilities are available to works and ensure that a construction phase plan is in place.
- The principal contractor and the CDM co-ordinator must be appointed in writing by the client.
- ACOP requires clients to apply a 2-stage process to assess competency of its professionals against core criteria.
- Clients will assume responsibility of principal contractor and CDM co-ordinator for any period in which those persons are not appointed.
- Clients must provide adequate time prior to the commencement of construction to enable contractors and others to carry out the necessary CDM planning and preparation. The construction phase plan must be in place before works begin on site.
- Designers should not undertake design, other than initial design, before the CDM co-ordinator is appointed.
- All parties have duties to co-ordinate, co-operate and take account of general principles of prevention from a health and safety perspective.

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- Within 12 months of April 2007, the client must take reasonable steps to ensure that existing planning supervisors and principal contractors are competent to act under the 2007 Regulations.

PRACTICAL IMPLICATIONS

- The period between order and mobilisation is likely to increase to provide adequate time for CDM planning and preparation.
- The additional burden may require clients to enhance their in-house capability in relation to CDM compliance/monitoring.
- The CDM co-ordinator will need to be appointed in the early stages of initial design to allow the design process to continue. Early involvement of the principal contractor is also encouraged as in the absence of such appointments, the client will be deemed to be the CDM co-ordinator and principal contractor.
- Client's who have appointed agents for projects that commenced prior to 6 April 2007, will have to seek the agent's consent to continue in that role. If the appointment is to be continued, it is advisable to record this in writing.

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