

HEALTH AND SAFETY EXECUTIVE			
CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)			
Meeting date:	19 November 2014	FOI status:	Fully open
Type of paper:	Above-the-line	Exemptions:	None
TRIM reference:	2014/379715	Paper No:	M3/2014/2
Cleared by:	Simon Longbottom, Head of Construction Sector and Policy on 29 October 2014		

Developments in the revision of the Construction (Design and Management) Regulations 2007 (CDM) and associated material

A paper by HSE Construction Sector

For information and discussion

This paper provides an update on the revision of the Construction (Design and Management) Regulations 2007 and associated supporting material in the light of the HSE Board's consideration of HSE's proposals

Background

1. At its August 2014 meeting¹ the HSE Board considered the outcome of the public consultation on proposals to revise CDM 2007. The consultation resulted in an exceptionally high number of responses (in excess of 1400).
2. The Board broadly supported HSE's proposals in that it recommended that HSE should move forward with a package which delivered a simplified set of regulations with significant changes in the areas of competence and co-ordination, and closer alignment with the parent Directive with regard to its approach to domestic client duties and the thresholds at which certain administrative requirements apply.
3. However, in the light of a substantial body of comments which were critical of HSE's proposals in the consultation to replace the Approved Code of Practice (ACOP) with guidance, the Board directed that HSE should develop a new, shorter ACOP to support the revised Regulations. It is expected that this ACOP will be the subject of a further consultation in 2015.

Amendments following consultation

4. The paper suggested a number of areas in which it was felt further work was needed to develop the draft revised Regulations. The Board agreed

¹ <http://www.hse.gov.uk/aboutus/meetings/hseboard/2014/130814/paugb1462.pdf>

these proposals, and HSE has undertaken further work to amend the consultation draft accordingly.

5. Firstly, HSE proposes more flexibility in the transitional provisions in order to allow a 'run off' period of six months for projects under construction when the revised Regulations come into force. For a substantial majority of projects it will therefore be possible to continue with a CDM co-ordinator until their co-ordination function is no longer required, subject to a six month limit. This should reduce transitional costs for such projects.

6. Secondly, the provisions relating to domestic clients have been redrafted to improve clarity and further simplify the mechanism by which domestic client duties are assumed by other parties.

7. Thirdly, HSE has revisited the approach to 'general duties' which will replace the detailed competence requirements in CDM 2007. In addition to using terminology which better reflects industry practices, the provision has been amended in order to clarify the responsibilities between the parties appointing designers and contractors and those appointed. The amended provision also introduces the concept of 'organisational capability' where appropriate

8. HSE has made some other presentational changes to improve clarity and readability of the draft Regulations. Principally these relate to the relationship between the principal designer and principal contractor in relation to the flow of information between them, through which their respective duties with regard to the construction phase plan and the health and safety file have been made clearer. These changes do not substantively alter the requirements of the Regulations.

9. A limited number of those who responded to the public consultation made detailed comments on the content and methodology of the impact assessment which formed part of the consultation documents. HSE subsequently met with these respondents to gain further insight into their concerns. The concerns were that the impact assessment underestimated both the time required for familiarisation with the new requirements and the associated costs. Concerns were also expressed that the impact assessment overestimated the degree to which the integrated approach of delivering pre-construction co-ordination through a principal designer would be embraced. It was felt that a higher proportion than predicted would engage external assistance in the delivery of this function.

10. HSE has amended the impact assessment accordingly, with a resulting downward adjustment in the expected cost savings. The impact assessment has now been subject to its 'final stage' post-consultation government scrutiny. The outcome of this scrutiny was successful, and the formal opinion is expected to be published in the near future. HSE will then append the final

stage impact assessment as Annex 1 of the HSE Board paper referred to in paragraph 1.

Development of guidance material

11. Both the joint HSE-industry guidance and the HSE-authored 'L-series' guidance are now substantively complete in draft form. HSE has sent the six draft HSE-industry guides to CONIAC members. CONIAC will consider whether it is content that industry guidance steering group has produced guidance which is in accordance with its terms of reference at its meeting on 19 November.

12. HSE's Publications Governance Group will consider the drafts of all of the guidance at its meeting in November. Whilst the guidance will necessarily remain as draft until the CDM 2015 have been formally laid, HSE plans to publish the draft L-series guidance on the HSE website on 9 January, in keeping with Government policy of issuing such guidance twelve weeks in advance of legislation coming into force. It is expected that the joint HSE-industry guidance will be published on the CITB website at the same time.

Next steps

13. HSE still expects that the CDM 2015 Regulations will come into force in April 2015. There are still some uncertainties regarding the detailed timings of the various clearances which must precede this, however. CONIAC Secretariat will provide a current update to CONIAC at its 19 November meeting.

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