



THE SCOTTISH OFFICE

NHS
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National Health Service in Scotland
Management Executive

St. Andrew's House
Edinburgh EH1 3DG

Dear Colleague

**EC TEMPORARY OR MOBILE CONSTRUCTION SITES
DIRECTIVE**

Summary

1. The EC Temporary or Mobile Construction Sites Directive (92/57/EEC) came into force on 1 January 1994. The Appendix to this letter contains guidance on this Directive, the objective of which is to improve health and safety management in the construction industry throughout the European Community. The provisions of the Directive place certain responsibilities on clients as well as designers and contractors.

2. The Directive will be implemented in the UK by means of the Construction (Design and Management) Regulations (CDM) 1994 which are currently in draft form and are expected to be enacted in the UK on 1 July 1994. The requirements of the Directive will not be enforced in the UK before this date.

Action

3. This letter and the attached guidance should be brought to the attention of officers involved in awarding "construction work" contracts.

Yours sincerely

H R McCALLUM
Director of Estates

15 April 1994

Addressees

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Appendix

EC Temporary or Mobile Construction Sites Directive (92/57/EEC)

(Construction (Design and Management) Regulations 1994)

Introduction

1. The EC Temporary or Mobile Construction Sites Directive (92/57/EEC) came into force on 1 January 1994. This Directive will be implemented in the UK by means of the Construction (Design and Management) Regulations 1994 (CDM Regulations) and until these Regulations are enacted into UK law (they are currently in draft form) the requirements of the Directive will not be enforced in the UK.
2. The objective of the CDM Regulations is to raise the standard of Health and Safety management in the construction industry.
3. The date currently proposed for the CDM Regulations to be introduced is 1 July 1994 with a three-month lead-in period to 1 October 1994. This is to permit clients, designers, contractors etc to set up arrangements to meet the requirements of the regulations. During the three-month lead-in period it is currently understood that only the most serious breaches of the CDM Regulations will result in any action by the Health and Safety Executive (HSE).
4. All NHS trusts and authorities will be subject to the provisions of the CDM Regulations, including the penalties (see paragraph 18) for contravening them.

Implementation by NHS trusts and authorities

5. Chief executives of NHS trusts/unit general managers should note:
 - that the definition of "construction work" in the CDM Regulations includes maintenance and demolition works as well as the construction of new buildings (see paragraph 8);
 - that the Regulations place certain responsibilities on clients as well as designers and contractors.

Therefore, they must ensure that those responsible for the management of their estate are aware of the requirements of these regulations and are taking appropriate action to ensure compliance when the regulations are introduced.

6. It is important that NHS trusts and authorities start to consider how to implement the CDM Regulations for all "construction works". This requirement is emphasised by the current absence of any transitional arrangements, as explained in paragraph 19.
7. Therefore, NHS trusts and authorities intending to award contracts after 1 January 1994 are advised to refer to the CDM Regulations (they will be available from HMSO) or, in their absence, to:
 - Proposals for Construction (Design and Management) Regulations and Approved Code of Practice – Consultative Document by Health and Safety Executive (CD51; E500; 10/92);
 - Temporary or Mobile Construction Sites Directive, 92/57/EEC.

Coverage

8. The CDM Regulations will apply to all projects which include "construction work". Construction work is defined in the draft CDM Regulations as follows:

"Construction work" means the carrying out of any building, civil engineering or engineering construction work and includes any of the following work:

- (a) the construction, alteration, conversion, fitting-out, renovation, repair, upkeep, maintenance (including redecoration and cleaning), demolition or dismantling of a structure;
- (b) the preparation for (including excavation), and laying or installing the foundations of, an intended structure;
- (c) the assembly or disassembly of prefabricated elements of a structure;
- (d) the removal of a structure or part of a structure or of any product or waste resulting from demolition or dismantling of a structure or disassembly of prefabricated elements of a structure;
- (e) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, telecommunications, computer or similar services as an integral part of a structure;
- (f) the commissioning of any fixed manufacturing plant in respect of which such work involves a risk of falling more than 2 metres;
- (g) the cleaning of any glass wall, window, ceiling or roof in a structure where such cleaning involves a risk of falling more than 2 metres, but does not include the exploration for or extraction of mineral resources or activities preparatory thereto."

9. In addition, the CDM Regulations use the term "project" when referring to "construction work" as defined above.

Parties involved

10. Client – any person for whom a project is carried out.

11. Designer – any employer or self-employed person who prepares the design of a structure or of part of the structure (this includes quantity surveyors, building surveyors and anyone else who is involved in specifying). The CDM Regulations also make it clear that the project manager is considered to be a designer.

12. Planning Supervisor – a competent person who shall be appointed from among the employers and self-employed persons who are responsible to the client for the design of the project.

13. Principal Contractor – a competent contractor (who shall be appointed from among the contractors who are responsible to the client for the execution and supervision of the project. (This principal contractor could be the management contractor or construction manager if a management style of building contract is used.)

Responsibilities of parties

14. Client

These are as follows:

- the client must appoint a "planning supervisor" and "principal contractor" (both of whom have specific functions under the CDM Regulations);

- the clients must give notice of the commencement of a project to the HSE (Annex A provides a list of information to be provided); this notice is not required where it is believed that the construction stage will:
 - a. be of less than 30 days' duration;
 - b. not involve more than 500 person-days of construction work;
- the client must ensure that adequate time and financial provisions are allowed for everyone involved in the project to comply with their relevant statutory obligations;
- the client must ensure that the planning supervisor has all the information he needs in order to comply with his obligations under the CDM Regulations;
- the client must obtain the health and safety file at the end of the project containing all the relevant information about the material used on the project and the methods of construction. This record must be kept so that:
 - it can be consulted in the future by anyone carrying out work on the project;
 - it can be handed over to any subsequent owner/occupier.

15. Designers

These are as follows:

- to ensure, as far as is reasonably practicable, that if the structure conforms to their design, persons at work on the building at any time will not be exposed to risks to their health or safety (it is important to note that the designer's obligations extend not only to considering how the design will affect health and safety during the construction phase but also to any subsequent phase including maintenance and demolition of the structure);
- to ensure that the design contains adequate information about anything which might affect the health and safety of anyone carrying out work on the structure.

16. Planning supervisors

These are as follows:

- to ensure that the design of any structure in the project is such that (as for the designer), if the new structure conforms to the design, persons at work who are either building, maintaining or repairing the structure will not be exposed to risks to their health and safety;
- to ensure that before construction starts on site, a health and safety plan has been prepared which will ensure the health and safety of everyone who will work on the project;
- to ensure that the contractor's tender incorporates adequate financial provision and time for compliance with the CDM Regulations;
- to ensure that a health and safety file is prepared containing all the relevant information about the material used on the project and the methods of construction.

17. Principal contractors

These are as follows:

- to ensure that the requirements of the CDM Regulations are complied with on site: this includes co-ordinating co-operation between the various subcontractors in relation to health and safety matters;
- to be responsible for the health and safety plan during construction and ensure that it continues to contain all the relevant information about matters which might affect health and safety on site;
- to ensure, as far as is reasonably practicable, that every contractor and employee complies with any rules in the health and safety plan;
- to ensure that only authorised persons are allowed on the site;
- to review the health and safety file during construction and amend or add to it as necessary;
- to ensure that the necessary health and safety training is given by employers;
- to ensure that those working on the site can discuss and offer him advice on health and safety.

Enforcement of the CDM Regulations

18. The CDM Regulations will be made under the Health and Safety at Work etc Act 1974 and the rights of enforcement available to the HSE under that Act are also applicable to the CDM Regulations. Under the provisions of the Act the HSE have the following powers:

- warning letter;
- prohibition notice (the activity concerned cannot be recommenced until the prohibited aspect of it has been remedied);
- improvement notice (a time limit is set within which the improvement must be made);
- prosecution (usually only if there is an accident which the HSE considers to be the responsibility of a particular party) which can result in a substantial fine.

Transitional arrangements

19. There are currently no transitional provisions in the CDM Regulations and the HSE recognises that the regulations cannot always be implemented immediately, particularly where a large and lengthy project is in the course of construction. Nevertheless, the HSE will require that designers and others take account of the CDM Regulations as far as possible and that a planning supervisor and principal contractor be appointed for all projects by 1 October 1994 at the latest.

Further information

20. Further guidance will be given when the CDM Regulations come into force.

Particulars to be notified to the Executive

1. Date of forwarding
2. Exact address of the construction site
3. Name(s) and address(es) of client(s)
4. Type of project
5. Name(s) and address(es) of planning supervisor(s)
6. A declaration by the planning supervisor that he/she has been appointed as such
7. Name(s) and address(es) of principal contractor(s) (name(s) and address(es))
8. A declaration by the principal contractor that he/she has been appointed as such
9. Date planned for start of construction phase
10. Planned duration of the construction phase
11. Estimated maximum number of people at work on the construction site
12. Planned number of contractors on the construction site
13. Details of contractors already chosen

(Form 10rev obtainable from local HSE offices can be used to notify them of the above information)