

# British legal framework for construction health and safety



In 1974 in Great Britain, the parliament adopted the Health and Safety at Work etc. Act 1974 (HSWA) which became the major piece of legislation at work for health and safety matters in the country. This Act was adopted for all industries including construction. Its aims were to provide the main principles and duties to employers, employees and all the participant of the work activity in general (St John Holt, 2005). Then, the European Union (EU) imposed new directives to its members on health and safety issues. The legal framework in Great Britain changed and new acts and directive had been adopted by the parliament setting up a hierarchy of component in the legal system (Howarth & Watson, 2009):

European Union regulations and directives: all the members of EU are subject to European legislation

- UK statutory law: acts of parliament – HSWA 1974 is the principal act in the UK
- Statutory instrument: regulations to develop and detail specific duties and requirement concerning health and safety law in the UK
- Approved Codes of Practice: practical guidance for compliance with health and safety regulations

Since 1974, the HSWA had been supported and supplemented by several statutory instruments and regulations (Joyston-Bechal & Grice, 2004).

Following the framework directives of the EU aiming to improve health and safety for workers at work, the Management of the Health and Safety at Work Regulations 1992 and then 1999 (MHSW) came to provide additional

elements to the HSWA. Other 'daughter' regulations had been adopted to implement this act on specific construction related areas (Fewings, 2005).

Some examples of these new regulations (St John Holt, 2005; Fewings, 2005):

- MHSW – Management of the Health and Safety at Work Regulations 1992/1999
- CHSW – Construction (Health, Safety and Welfare) Regulations 1996/2000
- PUWER – Provision and Use of Work Equipment Regulations 1998
- LOLER – Lifting Operations and Lifting Equipment Regulations 1998
- CSHHR – Control of Substances Hazardous to Health Regulations 1999
- MHOR – Manual Handling Operations Regulations 1992
- CDM – Construction (Design and Management) Regulations 1994/2007

The HSWA first objectives were to impose duties on the stakeholders involved in the work activity related to the safeguarding of health and safety standards. The key duties were placed on employers toward employees, on employers towards people other than employees, on people in control of premises, on designer, manufacturers, suppliers and plant installer for the safety of their products, on every employees and more generally on everybody concerned by work activity (Howarth & Watson, 2009).

The responsibility for enforcing these act and regulations is taken by the Health and Safety Commission (HSC) which is appointed by the government to develop policies on its behalf. Its executive arm, the Health and Safety Executive (HSE) is in charge of the enforcement. It controls and advise the

companies in the applications of the regulations (St John Holt, 2005). The HSC and HSE are also responsible of recording and monitoring construction industry health and safety statistics in Great Britain. Injuries, diseases and dangerous occurrences are then considered with numbers and corrective actions can be made (Howarth & Watson, 2009).

### **Construction design and management (CDM)**

On 6 April 2007 came into force in Great Britain the new Construction Design and Management Regulations 2007 written by the Health and Safety Commission (HSC) and approved by the Secretary of State and the Parliament. These regulations update, combine and replace the former Construction Design and Management Regulations 1994 (CDM94) and the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW) which both needed to be reviewed and updated accordingly with the recent evolutions of the considerations towards health and safety issues in construction and after consultations of the main stakeholders of the construction industry (HSC, 2007).

The CDM2007 Regulations aim to reduce construction accidents and ill health in Great Britain by encouraging the various stakeholders of the construction industry to improve in planning and managing their projects taking into consideration matters of safety and health early on in the project definition. By starting focusing on these essential points at the beginning of a project, risks can be identified and managers are able to make good decisions ahead of difficulties (Howarth & Watson, 2009). In this new version of the regulations, the HSC focuses on communication and co-ordination between all the parties involved in the construction project and set up <https://assignbuster.com/british-legal-framework-for-construction-health-and-safety/>

several duties for each of the different stakeholders. It also highlights that the amount of paperwork and all the bureaucracy caused by the previous version of the regulations should be reduced and the focus put on the planning and management. (HSE Website)

The CDM set up obligations for clients and designers. The main obligation imposed to the client is to appoint the main stakeholders for the planning and the realisation of construction work (St John Holt, 2005). By ‘construction work’, the CDM broadly refers to ‘the carrying out of building, civil engineering or engineering construction work’ (HSC, 2007). The regulations also impose duties to the central figures then appointed which are related to health, safety and occupational safety on construction project and which will be summarised later in this paper. Among the dutyholders which participate to the carrying out of the project are the Client, the Designer, the CDM-Coordinator, the Principal Contractor and the Contractors (St John Holt, 2005).

### **The Client**

The Client is defined as ‘any person for whom construction work is being carried out, whether done by external labour or in-house’ (Joyston-Bechal & Grice, 2004). It can be an individual as well as a company. By this definition of the investigator of the work, the Client is the one who provides adequate funds to design and realise the work in respect of safety and health regulations imposed by the CDM and thus has a certain influence on what happens on site (St John Holt, 2005). The CDM

Regulations 2007 submit the Client to several duties (Howarth & Watson, 2009) (Joyston-Bechal & Grice, 2004) (HSE, 2006):

- Appoint a CDM-Coordinator and a Principal Contractor
- Make sure that these two stakeholders and all the other the client could directly appoint are competent and have the adequate resources to manage health and safety problem associated with the project
- Ensure that the construction does not start until suitable welfare facilities have been provided as well as an agreeable health and safety plan
- Provide the CDM-Coordinator and the Designers with all the relevant information about health and safety matters related to the project
- Retain and make the health and safety file available to anyone who asks for it

The CDM-Coordinator should be appointed as soon as possible so the Client can receive advice from him in order to appoint the other stakeholders (St John Holt, 2005). One of the important duty of the Client is to make sure that all the main figures he (it?) has to appoint are 'competent' and have the 'adequate resources' to deal with health and safety issues. That means the Client has to ensure that these stakeholders understand well the project, are familiar with construction techniques, are well aware of health and safety matters their risks and consequences but also that they allocate enough money and persons to do the job (Joyston-Bechal & Grice, 2004).

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## **The CDM-Coordinator**

The CDM-Coordinator is a person or a company appointed as early as possible by the Client in the preparation of the project. He is a key element for the prevention of risks related to health and safety as he is the main advisor of the Client and he is the guarantor of coordination and co-operation between the main figures involved in the construction process (HSC, 2007).

The duties of the CDM-Coordinator imposed by the Regulations 2007 are (HSC, 2007) (Semple Fraser, 2007) (Howarth & Watson, 2009):

- Advise the Client and other stakeholders on appointments: competence and resource availability
- Notify HSE about the project
- Coordinate planning and design work on health and safety matters
- Cooperate with the Principal Contractor and facilitate good communication between the stakeholders involved in the project
- Collect pre-construction information and prepare a pre-tender health and safety plan
- Prepare and update the health and safety file
- Supervise designers and ensure the design is prepared adequately

The CDM-Coordinator is appointed only in the case of notifiable projects.

That covers all the construction works which are scheduled to last more than 30 days or involve more than 500 person-days of work. A person-day is defined as one individual carrying out construction work during one normal working day (St John Holt, 2005).

An important part of the CDM-Coordinator's duties is to work close to designers in order to ensure they get the right information are the good moment and to supervise their work in order to figure out if they consider hazard, risks and control (WS Atkins Consultants, rev A. Gilbertson, 2004).

### **The Designer**

Designers have a key role in managing health and safety on site. They are the persons or companies who can prevent risks at the source (Semple Fraser, 2007). The designer is the one who analyse site information and prepare drawings and specifications for the project. He can be an architect, a land surveyor or an engineer (HSE, 2006). For complex projects, several designers can be appointed to split the design and ensure to identify and examine all the health and safety factors that need to be addressed (WS Atkins Consultants, rev A. Gilbertson, 2004).

The main duties of a designers are

- Eliminate hazards and reduce health and safety risks
- Provide all the stakeholders with information about the remaining risks that could be eliminated
- Ensure the client is aware of duties and that he (it?) appointed a CDM-Coordinator
- Update the health and safety file with all the new information concerning health and safety matters
- Cooperate with the CDM-Coordinator and the other designers and supply the relevant information



Designers have the duty of identifying and eliminating hazards and reduce the risks of those which cannot be eliminated (HSC, 2007) by using risk assessment methods to detect foreseeable risk and ensure the safety of workers by tackling the problem at the source. For this purpose they have to reduce the likelihood of harmful occurrences and the potential severity of harm resultant from it, limit the number of people exposed to these occurrences on site as well as the duration and frequency of exposition (Howarth & Watson, 2009).

### **The Principal Contractor**

The Principal Contractor is an individual or a company appointed early in the construction process by the Client and is responsible for planning, managing and controlling health and safety on site during the construction phase of the project (HSE, 2006). The Principal Contractor is usually the main Contractor of the project. He (it?) has to ensure a good cooperation and coordination of work between the Contractors involved in the construction because of the fact they may work on the same site at the same time and then interaction between them can create unexpected hazards (HSC, 2007).

The duties imposed to the Principal Contractor are (Howarth & Watson, 2009) (Joyston-Bechal & Grice, 2004) (HSE, 2006):

- Plan, manage and control construction phases and provide a good communication with Contractors
- Create and implement the health and safety plan on the base of the pre-construction plan
- Set up site rules

- Provide Contractors with all the information available concerning health and safety matters to ensure safety of their workers
- Ensure the availability of suitable welfare facilities at the beginning of the work and maintain it during the duration of the construction phase
- Check the resource availability and the competence of its (his?) appointed stakeholders
- Provide the workers with an induction when they arrive on site and further training and information for specific work
- Make the site a safe place and restrict access to people involved in the construction
- Consult with the workers and liaise with the CDM-Coordinator

The Principal Contractor has a significant health implication when designs change or decisions are modified. The consultation process with the workers and the CDM-Coordinator permits to make everyone aware of the new updates in the construction phase plan and of the changing in managing health and safety (Semple Fraser, 2007).

### **The Contractor**

The Contractor is any person or company who is in charge of the carrying out or the management of the construction work. The Contractor can also organise the work of other stakeholders who carry out the work on his (it ?) behalf (Joyston-Bechal & Grice, 2004).

The duties of the Contractor are (Howarth & Watson, 2009) (HSC, 2007):

- Plan, manage and control own work and that of workers
- Check competence of workers and sub-contractors

- Specific training for workers
- Provide health and safety information to workers
- Make sure workers benefit from suitable welfare facilities
- Check the project is notified before starting the work
- Cooperate with other Contractors and with the Principal Contractor
- Provide any information to update the health and safety file

Report any accidents, diseases and dangerous occurrences to the Principal Contractor as well as problems with the health and safety plan.

Most of the time on large projects, several contractors work at the same time on the same site. In this case it is essential they cooperate with each other and follow the instructions of the Principal Contractor not to interact and create new hazards on site. The contractors should ask for the health and safety construction phase plan produced by the Principal Contractor to get all the information they need to ensure safety of their employees (HSE, 2006).