

Construction Newsletter

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Construction Safety Solutions Ltd

Construction (Design and Management) Regulations 2015

Subject to Parliamentary approval, new Construction (Design and Management) Regulations 2015 (CDM 2015) will come into force on 6 April 2015.

The draft Legal (L) Series guidance is on the legal requirements for CDM 2015. It's being made available before the Regulations come into force on 6 April to help anyone who has duties under the Regulations to prepare in advance.

Please note the draft Regulations within the guidance have been amended following consultation. The Regulations and this draft Legal series guidance may be subject to change while the Regulations are awaiting Parliamentary approval.

The final version of the Legal series guidance to support CDM 2015 will be available on 6 April 2015.

What will change?

Principal Designer. The replacement of the CDM co-ordinator role (under CDM 2007) by principal designer. This means that the responsibility for coordination of the pre-construction phase – which is crucial to the management of any successful construction project – will rest with an existing member of the design team.

Client. The new Regulations recognise the influence and importance of the client as the head of the supply chain and they are best placed to set standards throughout a project.

Competence. This will be split into its component parts of skills, knowledge, training and experience, and - if it relates to an organisation - organisational capability.

This will provide clarity and help the industry to both assess and demonstrate that construction project teams have the right attributes to deliver a healthy and safe project.

The technical standards set out in Part 4 of the new Regulations will remain essentially unchanged from those in guidance related to CDM 2007. HSE's targeting and enforcement policy, as a proportionate and modern regulator, also remains unchanged.

Draft Industry Guidance

There are a series of draft industry guides for the five dutyholders under CDM 2015, and one for workers. These are available before the Regulations come into force and may be subject to change. They set out, in practical terms, what actions are required to deliver a safe and healthy construction project.

HSE will also be working with stakeholders in the entertainments industry to provide specific guidance for these sectors.

Transitional Arrangements

When CDM 2015 comes into force on 6 April 2015, there are transitional arrangements in place that will run for six months from 6 April 2015 to 6 October 2015.

HSE Appoints New Chief Inspector of Construction

The Health and Safety Executive (HSE) has appointed its new chief inspector of construction.

Peter Baker, who is currently Head of HSE's Chemicals, Explosives and Microbiological Hazards Division, will replace Philip White on 1st April 2015.



Philip, who has been acting interim chief since Heather Bryant left HSE in September 2014, will continue in his role as Head of HSE's Operational Strategy Division.

Construction is one of Britain's most important industries employing over two million people. Vast improvements have been made in the sector in recent years however it remains one of Britain's most dangerous industries to work in. The post of chief inspector of construction for HSE is hugely influential in working with and encouraging industry to drive up health and safety standards.

Peter said: "I am delighted to be appointed as the chief inspector of construction, and I am very much looking forward to working collaboratively with the whole of the construction industry to continue the progress it has made in reducing ill health and injury in recent years.

In particular, I want to ensure the industry responds in a sensible and proportionate manner to the revised CDM Regulations. All changes bring challenges, and I want the industry to work together in focussing on the real health and safety risks to workers' lives;

I believe that industry leaders also have a critical role to play, and have seen in the major hazard sectors how vital clear and positive leadership is to achieving the effective management and control of risks."

Philip said: "I'm very pleased to be handing over to Peter whose extensive experience of managing high hazard industries for HSE stands him in excellent stead to provide leadership for an industry which despite its vast improvements, still has a lot to do.

Peter will also take over a dedicated and hard-working team within HSE, committed to driving improved health and safety outcomes in the industry"

Construction Giant and Sub Contractor in Court after Metal Frame Collapsed

A leading construction firm and a concrete contractor have been fined after a metal frame collapsed at a site in Birmingham, knocking two workers from scissor-lift platforms.

Bell Formwork Services Ltd had been subcontracted by Costain Ltd to build the metal frame for a concrete tank at a new pumping station and water treatment site at Frankley Water Treatment Works.

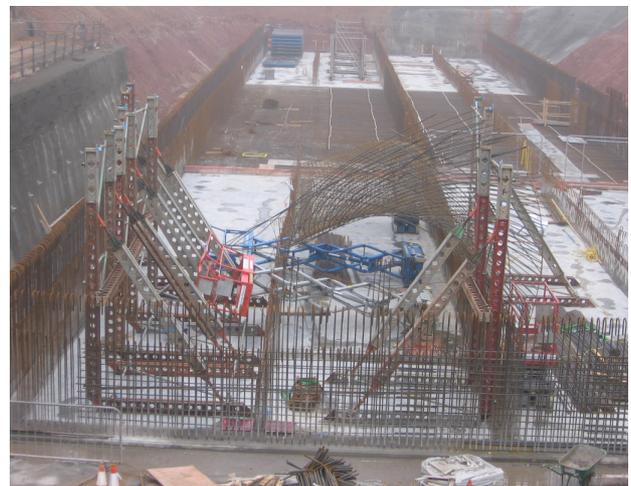
Birmingham Magistrates' Court heard today (2 Feb) that two steel fixers, a 65-year-old man from Brownhills, Walsall, and a 45-year-old from Cheslyn Hay, Staffordshire, had been raised nearly five metres above ground in separate scissor-lifts to take measurements of the tank wall.

Shortly afterwards the wall of reinforcing bar collapsed, bending over in a wave-like motion, knocking over both scissor-lifts with the operators still inside.

The 65-year-old steel fixer remained in his platform as it landed on its side and crashed into a nearby support frame. He suffered bruising and pain in his leg and shoulder.

His colleague was propelled from his platform as it landed on its side against a nearby support frame. He suffered bruises to the head, legs and body. Three other workers on the ground took cover and avoided injury.

An investigation by the Health and Safety Executive (HSE) into the incident on 12 November 2012 found both Bell Formwork and Costain had failed to ensure the workers were able to do their job in safety.



HSE identified that the steel reinforcement for the tank walls, 21m long and 6.3m high, was unstable due to its size, the slenderness of the steel bars and the weight of the steel at a high level.

A temporary support should have been put in place every seven metres. However, on the day only two support frames were used at 8.3-metre spacing, leaving a section of eight metres unsupported.

HSE found principal contractor Costain Limited did not plan, manage or monitor the work properly.

They were aware of the risks of collapse and the need for temporary support, including from a similar collapse in March of the same year at another site. Despite this they did not apply their own temporary works management arrangements, which would have included a series of checks.

Bell Formwork Services Limited failed to ensure that all practicable steps had been taken to prevent danger to persons, to ensure the reinforcement did not collapse.

They then did not take reasonable steps to prevent the collapse of the wall and failed to identify that support was inadequate because there was no managerial level supervision or monitoring during these early stages of the work.

Costain Ltd of Vanwell Business Park, Maidenhead, Berkshire, pleaded guilty to breaching the Construction (Design and Management) Regulations 2007, and were fined £15,000 and ordered to pay costs of £1,980. Bell Formwork Services Ltd of Pinchbeck Road, Spalding, pleaded guilty to a separate breach of the same regulations and was fined £15,000 and ordered to pay £1,851 costs.

Speaking after the hearing, HSE inspector Luke Messenger said: "This was a serious incident and considering the size and weight of the wall, and the height from which the scissor-lifts overturned, it is extremely fortunate that no serious or even fatal injuries occurred.

"Construction and related companies need to ensure that the same degree of care and attention is given to the design and construction of temporary structures as it is to the design and construction of permanent works. Everything must be properly planned so it can be carried out safely by their staff. "Both companies were experienced in their industry and should have done better."

Sentences Should Improve Standards and Deter Offenders, Argues IOSH

IOSH has called for sentences that help improve health and safety standards, remedy defects and deter future offending.



In its response to a consultation by the Sentencing Council on guidelines on corporate manslaughter and health and safety offences, IOSH has stressed the need for sentences to reflect both culpability and societal disapproval.

Highlighting the need to prevent exploitation of vulnerable people and modern slavery, the chartered body also suggested that the use of 'victim impact statements' could be considered, if those affected wished to provide them.

Arguing that ignoring competent health and safety advice should be considered an aggravating factor, IOSH proposed that sentencing options are supplemented with compulsory health and safety training – a similar idea to the 'speed aware' programme aimed at preventing drivers from speeding.

IOSH has also emphasised the importance of appropriate use of director disqualification for convicted individuals. Head of policy and public affairs, Richard Jones said: "It's absolutely vital that those sentencing for serious health and safety failures fully appreciate the devastation and lasting harm these offences can bring.

"Well-designed guidelines can help ensure that sentencing is consistent and effective. The goal here is to ensure safe and healthy work for all." Sentencing guidelines help judges and magistrates decide the appropriate sentence for a criminal offence.

Criminal offences in England and Wales are very broadly defined and can have different levels of seriousness. Guidelines help to ensure that courts across England and Wales are consistent in their approach to sentencing. To view IOSH's response to the recent Sentencing Council consultation, visit www.iosh.co.uk/condocs

Deregulation Bill H&S Plans a 'Backward Step' – Survey

Planned changes to health and safety as part of the Deregulation Bill are being seen as a 'backward step', according to a new survey by Cedrec.

The survey of 320 professionals has revealed overwhelming concerns about the impact it will have on health and safety law – reflecting the Health and Safety Executive's verdict that the Bill paves the way for more confusion and a 'licence for cowboys'.

One area of concern for respondents is the plan to scrap rules for self-employed in low risk occupations. These will formally exempt certain self-employed people from safety regulation in a move that the Government claims will save businesses hundreds of thousands of pounds a year in compliance costs.

This is being driven by a change to a section of the Health & Safety at Work Act 1974, which places the requirements on self-employed people to ensure they protect others from harm or danger in the workplace. However, more than three quarters (80 per cent) of those surveyed by Cedrec said that the self-employed should not be exempt from health and safety regulations.

83 per cent believed it would be harder to manage health and safety in relation to self-employed workers if the Bill comes into force as proposed, while over three-quarters (77 per cent) foresaw problems with contractors.

The majority of those surveyed were negative about the proposals, calling into question the scope and purpose of exemptions. Many pointed to a lack of clarity. One respondent said: "As you create an exception, you create a loophole that could be exploited by unscrupulous employers." Another respondent felt the move: "paves the way for many breaches of other legislation".

Neil Howe, senior legal author at Cedrec, said the survey highlighted the concerns of many working in the health and safety sector that plans were a 'backward step', and agreed that greater clarity was needed: "Any plan to exempt self-employed workers from their health and safety requirements is disappointing, and can only lead to confusion and complications – the very things the Deregulation Bill is supposed to be removing.

"So we, along with many others, want to see clarity about what regulations under the Health and Safety at Work Act will be affected. We also need to see changes to clarify terms such as 'low risk' and 'relevant'.

"Of course the Government is concerned about the welfare of self-employed people but it needs to move swiftly to reassure people that this is actually the case.

The idea that one worker should be subject to different rules to another is ludicrous. What will happen is that the self-employed will be unsure if they are covered or exempt. The law is the law, and that should go for everyone."

Building Firm Sentenced for Corporate Manslaughter

A building firm and its owner have been sentenced today (3 February 2015) at Preston Crown Court, following an incident in 2011 where a man died as a result of falling through a roof.

Peter Mawson Ltd, a building and joining firm, pleaded guilty in December to 'corporate manslaughter' and a breach of the Health and Safety at Work Act by failing to ensure the safety of employees.

The company was fined £200,000 for the corporate manslaughter offence, and £20,000 for the Health and Safety breach.

Peter Mawson, owner of the company, also pleaded guilty to a breach of the same act and was sentenced today to: eight months in prison, suspended for two years; 200 hours unpaid work; a publicity order to advertise what happened on the company website for a set period of time, and to take out a half page spread in the local newspaper; and pay costs of £31,504.77.

At around 3:15pm on Tuesday 25 October 2011 emergency services attended West Cumberland Farmers LTD, Lindal, Ulverston, following a report that a man had fallen through a roof.

The man, 42 year old Jason Pennington, had been working on the roof and had fallen through the skylight from a height of approximately 7.6 meters onto a concrete floor. He was taken to Furness General Hospital where he died a short time later.

DS Paul Yates for Cumbria Constabulary said: "This has been a long and complex investigation, and we have worked closely with the Health and Safety Executive to establish what happened on that tragic day.

I hope that this case serves as a warning to other businesses in Cumbria that health and safety measures are extremely important, and if not implemented correctly can result in devastating consequences.

"Our thoughts remain with the family of Mr Pennington at this difficult time. Hopefully the sentencing today will provide some sort of closure, and they can be left to grieve in peace." Chris Hatton, the investigating inspector at HSE, added:

"Jason tragically lost his life because the company that employed him did nothing to make sure he was safe while he worked on a fragile roof.

"Peter Mawson knew the clear panels on the roof weren't safe to walk on but neither he nor his company provided any equipment to prevent workers falling to their death. If scaffolding or netting had been fitted under the fragile panels, or covers had been fitted over them, then Jason would still be here today."