

## CDM REGULATIONS

**M**ore than 2.2 million people work in construction, making it the country's biggest industry. It is also one of the most dangerous. According to the HSE, in the last 25 years, over 2,800 people have died from injuries they received as a result of construction work. Many more have been injured or made ill. So, are the revised regulations, due to come into force this April, going to make the industry safer? We decided to speak to Colin Stapleton AIIRSM and Adrian Stammers MIIRSM, to hear their views.

### IMPORTANT CHANGES AHEAD?

"For me, I don't think there will be a great deal of changes in the long term," says Colin, who works for Hayman Construction Ltd as assistant contracts manager and health and safety manager. "The '07 regulations are similar to the '94 regulations for principle contractors, so any changes should be easy enough to implement from the start of a project." However, Adrian, health, safety and environmental manager at Buckingham Group Contracting Ltd, thinks the new CDM Regulations will try to swing things over to the designer and focus on competence. "The new regulations put more responsibility for the safe design of the building, whereas under the current regulations, the designer is only required to consider the building maintenance and ultimate demolition of the building. They will now be required to consider the safety of people living or working (using) the building. They are also specifically required to avoid foreseeable risks 'as far as reasonably practicable'. The regulations require that the designers consider safety as the design progresses – the Approved Code of Practice guides them towards considering 'built in' safety features, rather than considering safety after the design is complete when it is often too late to make the necessary changes.

"I think the competence issue is going to be the main one that will affect most people involved in projects," he says. "Part of the early statements say that the intent is to reduce bureaucracy, but I can see the competence requirements creating a situation. They will want every 'r' crossed and every 'i' dotted and that may become a major issue."

"For the contractor, the new regulations should make things that bit easier," continues

IS THE INDUSTRY READY FOR THE NEW CDM REGULATIONS? AND WILL THE CHANGES BE WORTHWHILE? IIRSM SPOKE TO SOME MEMBERS TO FIND OUT.



# CDM 2007: ARE YOU READY?

Adrian. "The onus will be on the designer to do what they are supposed to do – design a safe building. But I don't think it will cure the problems yet – the regulations need to be taken a few steps further."

### COMPLEXITIES

"Do I think the existing CDM regulations are too complex? Definitely, especially in conjunction with the Construction (HS&W) Regulations," says Colin. "I work for a small/medium-sized construction firm in Devon. Trying to put all of the regulations into practice is all well and good if you have a large site with hundreds of workers, but quite often we only have a few workers on site – making it very difficult to get the right balance." He adds that with smaller jobs, where the client is responsible under the new CDM Regulations, the duties are perhaps harsh and not clearly explained, causing difficulties for clients to know what is expected of them. "As a main contractor trying to address any health and safety issues at the coal face, the new duties to both client and designer, although welcomed, will create an atmosphere of confusion initially. Many smaller scale construction firms may not be in a position to employ a person suitably informed to address the uncertain issues from the client and designer with confidence, and accidents may unfortunately occur." Colin feels the answer is for more information to be given to all involved, which is free and easy to understand, "not just half-day courses by expensive training consultants".

He adds that the main problems are encouraging the workforce to adhere to any health and safety instructions – particularly with subcontractors. "I can ask them to sign the health and safety policy promising to adhere to it, but if they are not wearing the correct personal protective equipment or performing a certain task correctly, it's very hard to tell them that. You can say 'ok, get off the site', but then the work doesn't get done. You need to find that happy medium."

However, Adrian disagrees to an extent, which is probably due to the fact that he works for a much larger organisation, which deals with demolition through to building big warehouses and football stadiums. "I don't think the regulations are too complex, I actually think in some ways they are too vague," he says. "Ireland's

CDM Regulations are very clear-cut and a lot easier to work with. What is reasonable and practicable? It's very difficult to define."

Adrian believes that Ireland uses a more prescriptive policy, whereby it sets out in detail what is and what is not expected for the law to be complied with. "British health and safety law is descriptive in that it is goal-setting. In simple terms, Ireland's law is pretty much black and white and ours tends to be somewhat grey." He explains that, on the other hand, the existing regulations are useful, as they allow initiative and innovation to improve safety. "There are two ways of looking at it. The descriptive system gives us the opportunity to think about innovative and safer ways of doing our job."

### TIME IS OF THE ESSENCE

"These revisions are long overdue," says Colin. "But have they come at the right time? Possibly not." He believes health and safety professionals are inundated with too many regulations in a short space of time, making them difficult to digest. "We've had the working at height regulations, asbestos, the Fire Order, and now the CDM Regulations, all in the last few months." Adrian believes the Government has dragged its heels on this one. "All the time it has taken to make decisions, there could have been stronger changes," he adds.

Both members were in agreement that it is worth waiting for the final information before training employees. "I certainly don't want to do it twice!" says Adrian.

The HSE's official reason for the revision of CDM 94 is to make the regulations less complex for the industry. Do our members agree? "We'll have to wait and see – I think they'll need to be in effect for a good six months to see if they are actually less complex," thinks Colin. And will the industry as a whole adhere to the new rules? "As a whole, definitely not, as a majority, yes," he says. "Well, put it this way," says Adrian, "I know of one particular company that carries out development work – big projects – and they still think CDM stands for Cadbury's Dairy Milk! That's the problem, that company is one of many."

A sad fact indeed. It's up to us as health and safety professionals, along with the HSE and the revised regulations, to see to that.

## CDM: KEY FEATURES

Following a HSE consultation exercise in 2002, revisions to the Construction (Design and Management) (CDM) Regulations (1994) (CDM 94) are expected to come in to force on 6 April 2007. The HSE claims the regulations will be improved by:

- making it easier for dutyholders to see what CDM expects of them
- accommodating the wide range of contractual arrangements in the industry
- emphasising the need to plan and manage work, rather than treating paperwork as an end in itself
- stressing the need for dutyholders to work in integrated teams
- simplifying the way dutyholders assess the capabilities of contractors and other project stakeholders.

Since CDM 94 was introduced in 1995, concerns have been raised that their complexity, and the bureaucratic approach of many duty holders, frustrate the regulations' underlying health and safety objectives.

The revision was generally supported by respondents to the consultation exercise. Eighty-three per cent strongly supported and welcomed the attempt to consolidate the law in this area, believing the regulations are much clearer and practical than the previous regulations. Many thought they appear to offer a more collaborative approach to the management of health, safety and welfare issues in the industry. However, some saw the need for additional work, agreeing in principal to the revisions, but wanting certain details to be further developed.

The new CDM Regulations will revise and bring together the existing CDM 1994 and the Construction (Health Safety and Welfare) (CHSW) Regulations 1996 into a single regulatory package. They will be supported by an Approved Code of Practice (ACoP) and industry-approved guidance. They will do this by placing duties on everyone involved, from project conception and design, right through to completion, with extra provisions to protect anyone involved in maintaining completed buildings.

"The new CDM regulations offer an opportunity for a steep change in health and safety performance and will be used to re-emphasise the health, safety and broader business benefits of a well-managed and co-ordinated approach to the management of health and safety in construction," the HSE says.

Do you work in the construction industry? We would love to hear your experiences of implementing the new regulations. Email [kellie.mundell@lexisnexis.co.uk](mailto:kellie.mundell@lexisnexis.co.uk).