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The new Construction (Design & Management) CDM2015 Regulations and Asbestos

On the 6th of April 2015 the new CDM2015 Regulations became law. These replace the previous CDM2007 Regulations. Full implementation of all elements comes into force for all CDM projects by 6th October 2015. However, to all intents and purposes, they are effective from 6th April 2015.

The principal changes are as follows:

- ✓ Strengthening of client duties
- ✓ Introduction of Domestic Clients
- ✓ Replacement of CDM Coordinator by a Principal Designer for the planning managing, monitoring and coordination of pre-construction phase health and safety
- ✓ Principal Designer and Principal Contractor will be required on all projects where there will be more than one contractor working on the project
- ✓ Replacement of explicit requirement for Dutyholder competence with need for Skills, Knowledge and Experience
- ✓ Change to the HSE's Notification level – F10 is now only required for projects lasting more than 500 person days, or lasting more than 30 days with more than 20 workers simultaneously

The CDM2015 Regulations and the Control of Asbestos 2012 Regulations (CAR2012) interact as regards the management of asbestos containing materials (ACMs). The principal changes under the new legislation, primarily affect the roles and responsibilities of those individuals who manage the process. The Principal Designer and the Principal Contractor. They have a crucial role to manage Asbestos Containing Materials (ACMs). The new CDM2015 Regulations 'carry real teeth' and with very good reason - asbestos is still today the single greatest cause of work-related deaths.

Exposure to asbestos currently causes approximately 5,000 deaths in the UK every year. Projected fatalities are set to rise to a peak in 2020, as a result of lack of awareness and lack of protection against this dangerous carcinogen and its deadly effects.

Criminal prosecutions can apply to the Principal Designer, the Principal Contractor and the Client where they do not fulfil their duties under the regulations.

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Duties under the CDM2015 Regulations relating to asbestos

The main asbestos related considerations for a Principal Designer and Principal Contractor to consider as regards asbestos are as follows:

- ✓ An Asbestos Survey/Asbestos Register must be prepared for all pre-1999 buildings.
- ✓ It must be a Refurbishment/Demolition survey in line with the proposed works. This must be site or project specific. The survey should be conducted in accordance with HSG264 asbestos: the survey guide.
- ✓ It must be current (ideally not more than 6 months old) and should be conducted in an unoccupied building.
- ✓ The surveying company/surveyors should be accredited by a United Kingdom Accreditation System (UKAS) or similar body.
- ✓ A Management Survey (old Type 1/2) survey is not sufficient.
- ✓ Any Asbestos Containing Materials (ACMs) identified in the survey should be removed by an HSE Licensed removal company who are licensed for the type of work required. A 14-day Notification to the HSE should be prepared by the asbestos contractor, with a detailed Method Statement and Risk Assessments for all licensable works.
- ✓ Where asbestos removal works are undertaken by a non-licensed organisation, the company must only use operatives that have received 'Category B' asbestos training in the removal of asbestos during notifiable non-licensed works (NNLW). For example, 'Category B' asbestos training may be required for operatives involved in refurbishment works where textured coating or vinyl floor tiles have been identified as positive for asbestos. In reality, there are limited organisations who do this type of work. Always check they have suitable Employer's Liability insurance to work on ACMs.
- ✓ In accordance with Regulation 10 of the CAR2012 Regulations all operatives on the site must have, **as a minimum**, 'Category A' Asbestos Awareness training certificates, not just the asbestos workers. The training must be current and should have been conducted by a UKATA accredited training organisation/trainer or similarly accredited organisation.
- ✓ 'Category A' training should also be undertaken by Architects, Surveyors, Engineers and other professionals – The Principal Designer and Principal Contractor. The training is a half-day course with a test at the end.



- ✓ The HSE have been undertaking extensive random site inspections throughout the UK and one of the first things they regularly ask for is sight of the appropriate survey report closely followed by records of training. Prohibition orders on sites are issued daily.

Where a building was constructed post-1999 and it is to undergo refurbishment or demolition, the CAR2012 Regulations do not apply. If the works involve new build construction again, generally, the CAR2012 Regulations will not apply. However, if the site is a 'Brownfield' site, then **there will be a requirement** to consider potential asbestos contamination of the site from previous buildings or operations conducted on the site.



For further guidance and advice, please contact Asbestos Building Surveys Limited. ABS is UKAS Accredited for survey work and a registered UKATA training organisation.

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