

SAFETY, HEALTH AND WELFARE AT WORK (CONSTRUCTION) REGULATIONS 2006

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Project Title:
Location:
Reference:

Information Paper for Clients

The Safety, Health and Welfare at Work (Construction) Regulations 2006 were made by the Minister of State at the Department of Enterprise, Trade and Employment in November 2006 and replace the earlier Regulations issued in 2001. They place duties on clients who commission construction or maintenance work to buildings or building services, other than work to a private house where it is not used for the purpose of a business or undertaking. These duties first came into effect on all projects which commenced on site after the 6th November 2006. There are transitional arrangements that your architect can brief you on. The purpose of this paper is to make clients aware of some of the main requirements of the regulations. This summary does not purport to be a legal interpretation and clients are advised to seek legal advice on the implications where they are unsure as to the meaning of the regulations.

1. Application of the Regulations

The regulations apply to all “projects”. A “project” has a special meaning under the regulations and it includes not just building works, but maintenance of buildings or services and other matters. It could be deemed to apply to works which would not normally be regarded as construction work. A Client cannot pass on his responsibilities to other parties.

A “Client” under the Regulations “means a person, for whom a project is carried out, in the course of a trade, business or who undertakes a project directly in the course of furtherance of such trade, business or undertaking”. The regulations do not therefore apply to persons who commission work on their own house, provided that the house is not for a business or undertaking.

2. Main Provisions of the Regulations

The following are the main provisions of the regulations as they affect clients.

- **Clients Duty to Appoint Project Supervisor**
Clients have a statutory duty to appoint a competent person or company to act as Designers, Contractors, Project Supervisor for Design Process (PSDP) and a competent person or company to act as Project Supervisor for Construction Stage of a project. The Client fails to appoint Project Supervisor at both Design Process and Construction Stage (PSCS) if competent to do so. If a Client fails to appoint Project Supervisors he will be held to be acting in these roles by default. Alternatively, the client may appoint the same person to fulfil both roles. In practice, on most normal construction projects, qualified architects can carry out the duties of Project Supervisor Construction Stage. Designers are not per-se competent to act as Project Supervisors for Construction Process.
- **Client to Check Resources**
Client must be satisfied that each Designer, Contractor and each Project Supervisor appointed has adequate training, knowledge, experience and resources for the work to be performed.
- **Safety and Health Plan**
The Project Supervisor for Design Process is required to provide information on the project to the Project Supervisor for Construction Stage. For all projects which are expected to last more than 30 days or involve more than 500 person days, or involve “particular risks”, a **Safety and Health Plan** for the building works during construction, has to be developed by the Project Supervisor for Construction Stage before work starts on site. (Particular risks are defined in the First Schedule of the regulations). The client shall provide a copy of the Safety and Health plan prepared by the PSDP to any person tendering for the project.
- **Information to the health and Safety Authority**

The client is required to notify the HAS of any project covered by the Safety, Health and Welfare (Construction) Regulations 2006, which will last longer than 30 days or 500 persons days , using the approved form (AF1) as attached.

- **Commencements Notice**

For all projects which are expected to last more than 30 days or involve more than 500 person's days, the Project Supervisor for Construction Stage is required to submit a commencement notice for the project to the Health and Safety Authority using the approved form (AF2). A copy is also required to be displayed on the site. This is a different notice to the one submitted under the Building Regulations.

- **Safety File**

It is the duty of the Project Supervisor for Construction Stage to co-ordinate the provisions of the necessary information for delivery to the PSDP who will deliver the completed file to the client as a **safety file** at the time of the completion of the works. The safety file is maintenance manual for the buildings or works and is intended to include general arrangement drawings used for the purpose of construction, wiring diagrams, maintenance instructions etc. It is important to note that these drawings are not "as built drawings". It is the duty of the Client to keep the safety file for use on the future maintenance or alteration of the building and if a Client's legal interest in the building is passed onto a purchaser or tenant to pass it on to that person.

- **General Duties**

The regulations place new general duties on designers, contractors, sub-contractors and self employed persons which will add to eh complications of design and construction. This will also be reflected in the cost of design and construction

3. **Appointment of Project Supervisors**

- **Project Supervisor for Design Process**

Appointment of the architect as Project Supervisor for Design Process must be in writing and should be separate from the appointment to design and monitor the building works. Such appointments must be confirmed in writing by the PSDP to the client. In order to avoid any doubt in the matter, it is advisable that the terms of the appointment as Project Supervisor for Design Process should specifically exclude any duty to monitor the Project Supervisor for Construction Stage.

- It is not the role of the PSDP to pre-qualify the Project Supervisor Construction Stage and Building Contractor, and it not included on the fee agreement between Client and PSDP.

- **Project Supervisor for Construction Stage**

In order to ensure that the respective areas of responsibility are clearly defined and properly segregated, it is advisable to appoint the Project Supervisor for Construction Stage by way of collateral agreement between client and contractor. This agreement will be separate from the main construction contract and will not be the subject of supervision by the Client or his agents. The separation has the merit of not requiring any changes to be made to the standard forms of building contract while, at the same time, protecting the client fro the doctrine of constructive notice arising through the normal duty of the architect or engineer to inspect the works during construction. The appointment of the PSCS must be made in writing and must be confirmed in writing to the client.

4. **Civil Liability**

Breach of duty can give rise to both civil and criminal consequences. Failure to perform the duties set out in the regulations is statutory negligence will be actionable in civil law if it can be shown that injury or damage has resulted from such a failure. The principle of joint and several liability will apply to such actions. It is important therefore that clients can show that they have performed their duties with due diligence if they are to avoid liability fro damages in personal injuries or other claims arising out of accidents on building sites.

5. **Summary of Main Client Duties**

The client must:

- Appoint, in writing at or before design work starts, a project supervisor for the design process (PSDP) who has adequate training, knowledge experience and resources.
- Appoint, in writing at or before construction begins, a project supervisor for the construction stage, (PSCS) who has adequate training, knowledge experience and resources.
- Be satisfied that each designer and contractor appointed has adequate training, knowledge experience and resources for the work to be performed.
- Co-operate with the project supervisors and supply necessary information;

- Retain and make available the Safety File for the completed structure. The Safety File contains information on the completed structure that will be required for the future maintenance or renovation.
- Provide a copy of the Safety and Health plan prepared by the PSDP to every person tendering for the project. The Safety and health Plan documents how health and safety on the project will be managed up to project completion
- Notify the Authority of the appointment of the PSDP where construction is likely to take more than 500 person days or 30 working days.
- There duties do not apply if:
 - You commission or procure a project in relation to your domestic dwelling; and
 - The project is not for the purpose of a trade or other undertaking.

6. RIAI Standard Documentation

The RIAI has developed a range of Standard documentation to assist in the implementation of the Regulations. Information on these documents is available from your architect or:

RIAI

8 Merrion Square

Dublin 2

Tel: + 353 -1- 6761703

Fax: + 353 -1- 6610948

Notes

Use of the title “Architect”

The use of the title “Architect” is not of itself evidence of any formal qualifications in architecture. In Ireland there is no legal protection or State Registration of the title “Architect” or of the qualification which the title implies.

- It is not legal to offer an architectural service under such titles as Architect or Architectural Consultant without having any relevant formal qualifications.
- Anyone may assume the title of Registration the RIAI holds the only register of professionally qualified architects with national and EU recognised qualifications.

The RIAI

The Royal Institute of Architects in Ireland was founded in 1839; the RIAI is the representative body for professionally qualified architects in Ireland.

- The RIAI’s qualifications for membership are accepted by the government, the courts and the EU as the required standard.
- A high standard of professional competence among its members is maintained by means of examination prior to entry, continuing professional development and information programmes.
- The affix MRIAI is recognised under article 11 of the EU directive (85/384EEC) on the mutual recognition of diplomas, certificates, and other evidence of formal qualifications in architecture.
- The RIAI has been designated by the State as a Competent Authority in relation to the EU Architects Directive.
- In Europe the RIAI represents the profession through membership of the Architects Council of Europe
- Worldwide, the RIAI represents the profession through membership of the International Union of Architects.