

MANAGING HEALTH AND SAFETY IN CONSTRUCTION

Approved Code of Practice

Health & Safety at Work (Jersey) Law, 1989

ACoP 11

Managing Health and Safety in Construction

Approved Code of Practice

Notice of Approval

By virtue of Article 10 of the Health and Safety at Work (Jersey) Law, 1989, (“the HSW Law”), this Code of Practice, entitled “Managing Health and Safety in Construction”, has been approved by the States of Jersey Minister for Social Security.

This Code provides practical guidance for all persons who have duties under Part 2 of the HSW Law and are involved with construction work.

ACoP 11

This Code of Practice shall come into force on 1 January 2015.



Senator F Le Gresley
Minister for Social Security

21 October 2014



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LEGAL STATUS

An Approved Code of Practice (“ACoP”) provides practical guidance on how you can comply with the standards required under the Health and Safety at Work (Jersey) Law, 1989, (“HSW Law”), and regulations in force under the HSW Law. If you follow the advice set out in the ACoP you will be doing enough to comply with the HSW Law in respect of the specific matters to which the ACoP applies.

ACoPs have a special legal status and are admissible in legal proceedings under the HSW Law. The Court may regard an ACoP as evidence in determining whether the requirements of the HSW Law have been met in the circumstances to which the ACoP relates.

Compliance with the HSW Law may be achieved by following an alternative method to that set out in an ACoP, but any alternative method must be seen to be providing an equivalent or higher standard than the ACoP.



PREFACE

In 2013, a working party of the Jersey Construction Council considered proposals for draft regulations which are intended to replace the existing prescriptive health and safety regulations for construction work, the Construction (Safety Provisions) (Jersey) Regulations, 1970.

Much has changed in the way in which construction work is organised since the 1970s, and the working party recommended that the existing regulations should be replaced with regulations which:

- Reflect the employment relationships within the industry;
- Seek improvements in the health and safety management of construction projects;
- Introduce specific requirements on clients and those in the design team to address health and safety as part of the construction project; and
- Align the titles of the key parties identified in the management of construction projects with those in place in the UK Construction, Design and Management Regulations 2007.

The Minister for Social Security, Senator Francis Le Gresley, agreed with the recommendations of the working party and proposals for new health and safety regulations, based on the proposed draft regulations.

The call for these proposals to include specific requirements on clients, designers and those involved with the management of construction projects, also reflected the requirements set out on key parties in the construction process, which are contained in the general duties set out under Part 2 of the HSW Law.

The working party therefore recommended that, in the interim period, until new health and safety regulations for construction are approved by the States, an approved code of practice should be introduced in order to provide guidance to those key parties on their duties set out under the Law.

This ACoP has therefore been approved by the Minister for Social Security with the intention of assisting persons involved in the construction, design and management of construction projects, in meeting the legal requirements placed on them under the general duties set out under Part 2 of the HSW Law.

INTRODUCTION

The construction industry continues to be the industry sector which accounts for the highest number of work related accidents and ill health reported to the Social Security Department each year. This is perhaps not surprising given the nature and type of work which is undertaken by the construction industry. This does not, however, negate the need to seek continual improvements in order to achieve the aim of providing a safer workplace for construction workers and controlling the risks to other persons who could be affected by the work which is being carried out.

It is recognised that an essential aspect of achieving improvements, in the management of risks posed by construction work, is by focusing on the planning and management of construction work right from the very start of the project. This ACoP therefore sets out to establish how all those involved with construction work can contribute to these improvements.

APPLICATION AND INTERPRETATION

This ACoP applies to all building operations and works of engineering construction as defined in the Construction (Safety Provisions) (Jersey) Regulations, 1970.

“Building operation” means the construction, structural alteration, repair or maintenance of a building or any appurtenance thereof (including repointing, redecoration and external cleaning of the structure), the demolition of a building or any appurtenance thereof, and the preparation for, and laying of the foundation of, an intended building or any appurtenance thereof;

“Works of engineering construction” means the construction, structural alteration or repair (including repointing and repainting) or the demolition of:

- a) any bridge, gas-holder, harbour pipeline, reservoir, sewer, sewage works, watercourse or waterworks;
- b) any steel or reinforced concrete structure, other than a building;
- c) any road, airfield or sea defence works; and
- d) such other works as may be prescribed.

For ease of reference in the ACoP, the term “construction work” is intended to include all types of building operations and works of engineering construction such as alterations, conversions, fitting out, commissioning, renovation, repair, maintenance, de-commissioning, and the demolition or dismantling of any structure.

DEFINITIONS

In this ACoP:

“commercial client” is someone who carries out a trade, business or undertaking and is having construction work carried out, unless they are a domestic client. A domestic client is someone who lives, or will live in the premises where the work is carried out. The premises must not relate to any trade, business or undertaking. Although a domestic client does not have duties under this ACoP, those who work for them on construction projects will.

“designer” is someone who has a profession, trade or business that involves them in the preparation of designs for construction work, including variations.

This includes the preparation of drawings, design details, specifications, bills of quantities and the specification (or prohibition) of articles and substances, as well as the related analysis, calculations, and preparatory work, and includes those who arrange for employees or other people under their control to prepare designs relating to construction work.

In construction work, designers are generally considered to be the individual or organisation that carries out the original design, such as architects and engineers. The definition of designer in the ACoP must be considered in its widest possible context and extends to anyone who has an influence or makes changes to a design, including clients, quantity surveyors and contractors, and extends to the specification of working methods and materials.

“major project” means construction work which will last more than 30 working days or involves more than 500 person days of construction work, for example 50 people working more than 10 days.

“health and safety project co-ordinator” is someone who is a key project advisor appointed by a commercial client where construction work falls within the definition of a major project.

“principal contractor” is someone who is appointed by a commercial client for a major project, to properly plan, manage and co-ordinate construction work in order to ensure that risks are properly controlled.

“contractor” is someone who directly employs, engages construction workers or manages construction work.

“construction worker” is someone who carries out construction work, including employees and self-employed individuals.

“construction phase plan” is prepared by the principal contractor, for major projects, to outline the arrangements for managing health and safety on site during construction work.

“health and safety file” is prepared or revised by the health and safety project co-ordinator, for major projects, or the principal contractor for small projects which do not fall within the definition of a major project and where two or more contractors are engaged. It will require the health and safety project co-ordinator or principal contractor to liaise with the commercial client, designer, principal contractor and contractors.

The file will contain information necessary for future construction, maintenance, refurbishment or demolition to be carried out safely, and is retained by the commercial client or any future owner of the property. The health and safety file should be a useful and valuable document for the commercial client and other key parties who may carry out future construction work on the premises.

The health and safety file should include the level of detail to allow the likely risks to be identified and addressed by those carrying out the work:

- a) a brief description of the work carried out;
- b) any residual hazards which remain and how they have been dealt with (for example, surveys or other information concerning asbestos; contaminated land; water bearing strata; buried services, etc.);
- c) key structural principles (for example, bracing; sources of substantial stored energy – including pre- or post-tensioned members; and safe working loads for floors and roofs, particularly where these may preclude the placing of scaffolding or heavy machinery in specific locations);
- d) hazardous materials used (for example, lead paint; pesticides; special coatings which should not be burned off, etc.);
- e) information regarding the removal or dismantling of installed plant and equipment (for example, any special arrangements for lifting, order of or other special instructions for dismantling, etc.);

- f) health and safety information about equipment provided for cleaning or maintaining the structure;
- g) the nature, location and markings of significant services, including underground cables; gas supply equipment; fire-fighting services, etc.;
- h) information and as-built drawings of the structure, its plant and equipment (for example, the means of safe access to and from service voids, fire doors and compartmentalisation etc.).

“key parties” refers to commercial clients, designers, health and safety project co-ordinators, principal contractors, contractors and construction workers.

THE LAW

Part 2 of the HSW Law sets out general duties on all those involved with work activities. These general duties, contained in Articles 3 to 8, apply to construction work.

Article 3(1) places a duty on employers to ensure, so far as is reasonably practicable, the health, safety and welfare of all of their employees. More specifically, **Article 3(2)** sets out the general duties of employers to their employees. Those duties include:

- the identification and assessment of risks to health and safety to which the employer's employees are exposed at work;
- the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
- arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
- the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of the employer's employees;
- so far as is reasonably practicable, as regards any place of work under the employer's control, the maintenance of it in such a condition that is safe and without risks to health and the provision and maintenance of access to and egress from it that are safe and without such risks;
- the provision and maintenance of a working environment for the employer's employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

Article 3(3) sets out further duties of employers employing 5 persons or more:

- to prepare and, as often as is appropriate, revise a written statement of:
 - (i) the employer's general policy with respect to the health and safety of the employer's employees;

- (ii) the organisation of responsibilities with respect to that policy;
- (iii) the arrangements in force and measures taken by the employer to implement that policy;
- (iv) the significant risks identified by the employer and the employer's assessment of them; and
- (v) any arrangements in force and any measures taken by the employer to eliminate or reduce the significant risks to health and safety identified.

Article 4 sets out the general duties of employees at work. All employees are required to take reasonable care for their health and safety and any other persons who may be affected by what they do or do not do. In addition, employees must co-operate with their employer or other person who is legally responsible for health and safety.

Article 5 requires employers and self-employed persons to consider individuals other than their employees who could be affected by their work activities, including members of the public and other groups of workers.

Article 6 requires persons in control of premises, which are used as a place of work by other individuals, (other than their employees), to ensure that areas under their control do not pose risks to persons using them.

Article 7 requires designers, manufacturers, importers and suppliers to ensure that products intended for use at a place of work can be used safely and without a risk of harm to health. This consideration must be made for the entire life of products, right through from design stage to decommissioning and disposal, and information relating to, or affecting safety, must be supplied to the end user.

Article 8 requires that no person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare as required by law.

Legal meaning of the term “so far as is reasonably practicable”

Requirements set out in the duties contained in Part 2 of the HSW Law include reference to the qualifying term “so far as is reasonably practicable” which has been interpreted by the courts in a consistent manner whenever they are used in health and safety legislation.

The term “reasonably practicable” is a narrower term than “physically possible” and allows economic considerations to be taken into account as one factor, with, for example, time or trouble, to be set against the risk. Where it is shown that the risk is insignificant compared to the costs involved, the measures required to overcome the risk may not be considered to be “reasonably practicable”.

Application to key parties

The following table provides an indication of the legal requirements, set out under Part 2 of the Law, which are likely to be placed on the key parties involved in construction work. The precise legal requirements placed on an individual key party will depend on the role that they undertake and the specific nature of the work involved. For example, a principal contractor or contractor may take on the responsibilities of a designer if they carry out the design of formwork.

	Article 3	Article 4	Article 5	Article 6	Article 7	Article 8
Commercial Client	●		●	●		●
Health and Safety Project Co-ordinator	●		●			●
Designer	●		●		●	●
Principal Contractor	●		●		●	●
Contractor	●		●		●	●
Employed Construction Worker		●				●
Self-employed Construction Worker			●			●

DUTIES ON KEY PARTIES

The legal requirements which are in place under health and safety legislation, requiring effective arrangements to manage health and safety at work, apply to all construction work. In recognising that the precise arrangements for managing health and safety are proportional to the risks involved, this ACoP provides guidance on arrangements for managing major projects, as defined in this ACoP, and small projects which fall below the definition of a major project where two or more contractors are engaged to carry out the work.

Commercial clients have requirements placed on them under health and safety legislation and are therefore included within the scope of this ACoP. Domestic clients, who are those who arrange for construction work to be carried out on their own house within which they live, are not subject to health and safety legislation and therefore do not have duties assigned to them under this ACoP. In circumstances where contractors work for domestic clients, they need to ensure that they have alternative arrangements to obtain information that would be provided to them by a commercial client and effectively manage the health and safety aspects of the work.

For small projects, commercial clients should appoint a principal contractor when two or more contractors are engaged in work on site, whether or not they are engaged on the site at the same time. The principal contractor's role in small projects is to plan and manage health and safety for the project to include the preparation of a written health and safety plan. An example of a written health and safety plan is contained in the Appendix to this ACoP.

For major projects there are additional requirements needed to ensure that health and safety is managed in an appropriate manner. Commercial clients should appoint a health and safety project co-ordinator to assist them in carrying out their duties, co-ordinate health and safety aspects of the design work and prepare the health and safety file.

A health and safety project co-ordinator can be an individual or a company and can be appointed independently of any other role on the project team, or they may combine this work with another role, for example, project manager, designer or principal contractor. Where the role is combined, it is crucial that the health and safety project co-ordinator has sufficient independence to carry out their tasks effectively.

The following table summarises the specific duties which should be addressed by the key parties in order to ensure that they fulfil their legal requirements under Part 2 of the HSW Law.

	All construction projects	Small projects where 2 or more contractors are engaged	Additional duties for major projects
Commercial Client	<ul style="list-style-type: none"> • Check competence and resources of all appointees • Ensure that there are suitable management arrangements for the work, including welfare facilities • Allow sufficient time and resources for all stages • Provide pre-construction information to designers and contractors 	<ul style="list-style-type: none"> • Appoint a principal contractor 	<ul style="list-style-type: none"> • Appoint a health and safety project co-ordinator • Appoint principal contractor • Make sure the work doesn't start unless there are suitable welfare facilities and a construction phase plan in place • Provide information relating to the health and safety file to the health and safety project co-ordinator • Retain and provide access to the health and safety file
Health and Safety Project Co-ordinator			<ul style="list-style-type: none"> • Advise and assist the commercial client with their duties • Co-ordinate health and safety aspects of design work and co-operate with others involved with the project • Facilitate good communication between client, designers and contractors • Liaise with principal contractor regarding the ongoing design • Identify collect and pass on pre-construction information • Prepare/update the health and safety file

	All construction projects	Small projects where 2 or more contractors are engaged	Additional duties for major projects
Designer	<ul style="list-style-type: none"> • Check commercial client is aware of their duties • Eliminate hazards and reduce risks during design • Provide information about remaining risks 	<ul style="list-style-type: none"> • Check principal contractor has been appointed 	<ul style="list-style-type: none"> • Check health and safety project co-ordinator has been appointed • Provide any information needed for the health and safety file
Principal Contractor		<ul style="list-style-type: none"> • Plan, manage and monitor the work in liaison with contractors • Prepare a written health and safety plan for the work. See Appendix for example of a health and safety plan • Make sure suitable welfare facilities are available and maintained throughout the work • Provide a health and safety file to the client on completion of the work 	<ul style="list-style-type: none"> • Plan, manage and monitor construction phase of the work in liaison with contractors • Prepare, develop and implement a written plan and site rules (initial plan completed before the construction phase begins) • Give contractors relevant parts of plan • Make sure suitable welfare facilities are provided and maintained throughout the construction phase of the work • Check competence of all appointees • Ensure that all construction workers have site induction and any further information and training needed for the work • Consult with the construction workers • Liaise with the health and safety project co-ordinator regarding ongoing design • Secure the site

	All construction projects	Small projects where 2 or more contractors are engaged	Additional duties for major projects
Contractor	<ul style="list-style-type: none"> • Check commercial client is aware of their duties • Plan, manage and monitor own work and that of workers • Check competence of all their appointees and workers • Train own employees • Provide information to their construction workers • Comply with the requirements of the Construction (Safety Provisions) (Jersey) Regulations, 1970 • Ensure there are adequate welfare facilities for own employees 		<ul style="list-style-type: none"> • Check a health and safety project co-ordinator and a principal contractor have been appointed • Co-operate with the principal contractor in planning and managing work, including reasonable directions and site rules • Provide details to the principal contractor of any contractor whom he engages in connection with carrying out the work • Provide any information needed for the health and safety file • Inform the principal contractor of problem with the plan • Inform the principal contractor of any work related accident/illness or dangerous occurrence
Employed Construction Worker Self-employed Construction Worker	<ul style="list-style-type: none"> • Check own competence • Co-operate with others and co-ordinate work so as to ensure the health and safety of construction workers and others who may be affected by their work • Report obvious risks • Comply with the requirements of the Construction (Safety Provisions) (Jersey) Regulations, 1970 • Take account of and apply the general principles of risk reduction when carrying out work 		

APPENDIX

Health and Safety Plan for small projects

Address of premises		
Description of work		
Topic	Assessment	Action taken
Access on site		
Welfare		
Working at height		
Scaffolds		
Ladders		
Roofwork		
Excavations		
Manual handling		
Loading and unloading goods		
Traffic, vehicles and plant		
Tools and machinery		
Hoists		
Emergencies		
Fire		
Asbestos		
Hazardous substances		
Noise		
Hand-arm vibration		
Electricity and other services		
Protecting the public		
Prepared by:		
Company:		
Date:		

This list is an example of issues that may need to be included in a health and safety plan for small projects. This list is not intended to be exhaustive.

Further information on the topics that are listed can be found in the HSE publication "The absolutely essential health and safety toolkit for the smaller construction contractor", reference INDG344 (rev2).

REFERENCES

Key parties can obtain further detailed guidance on how they can meet their duties by referring to information produced by the UK Health and Safety Executive (HSE), "Managing health and safety in construction, Construction (Design and Management) Regulations, 2007, Approved Code of Practice", reference L144, which can be freely downloaded from the HSE website <http://www.hse.gov.uk/pubns/books/l144.htm>

Acknowledgement is given to the use of information in this ACoP which has been obtained from HSE publication L144.

The CDM section of the HSE website also contains additional guidance which key parties will find helpful <http://www.hse.gov.uk/construction/cdm.htm>

Further information on the topics listed in the Health and Safety Plan for small projects can be found in the HSE publication "The absolutely essential health and safety toolkit for the smaller construction contractor", reference INDG344 (rev2).

The legal requirements set out under Part 2 of the HSW Law and Construction (Safety Provisions) (Jersey) Regulations, 1970, can be found on the Jersey Legal Information Board website: www.jerseylaw.je

Guidance to the HSW Law and the Construction (Safety Provisions) (Jersey) Regulations, 1970, is available on the Health and Safety at Work website: www.gov.je/hsi

FURTHER INFORMATION

Further information on the application of this ACoP, or advice on the guidance set out in this publication, may be obtained by contacting the States of Jersey Health and Safety at Work Inspectorate, Social Security Department, PO Box 55, Philip Le Feuvre House, La Motte Street, St Helier, Jersey JE4 8PE.

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This ACoP may be viewed online and downloaded at www.gov.je/hsi

Further copies of this publication can be obtained from the Health and Safety at Work Inspectorate.



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