



## **Guidance Note GN-003**

# **Construction (Design & Management) Regulations 2015 – Application to Telecommunications & Broadcast Work**



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## 1 Purpose

This document is aimed at mast & tower infrastructure owners and their contractors working within the Broadcast and Telecommunications sector. The purpose of this document is to provide guidance around the industry's interpretation of certain elements of the Construction (Design & Management) Regulations 2015 and to ensure compliance through a sensible, practical and risk-based approach.

## 2 Scope

This document applies to works on mast and tower infrastructure (including telecommunications and broadcast equipment on rooftops) undertaken by and on behalf of MATS Group members. Some MATS Group members may carry out construction works in different environments which are outside this guidance.

## 3 Definitions

### CDM Regulations 2015 Definitions

#### **Construction**

Construction work means "the carrying out of any building, civil engineering or engineering construction work and includes construction, alteration, conversion, fitting out, commissioning, repair, upkeep, redecoration or other maintenance, decommissioning, demolition or dismantling of a structure. It also includes the installation, commissioning, maintenance, repair or removal of telecommunications, computer or similar services that are normally fixed within or to a structure." The full definition can be found in: "*Managing health and safety in construction*" HSE document L153 Construction (Design and Management) Regulations 2015. Guidance on Regulations.

#### **Project**

"Project" means a project which includes, or is intended to include, construction work and includes all planning, design, management or other work involved in a project until the end of the construction phase. A programme is also classed as a Project for the purposes of this document.

#### **Client**

Clients are organisations or individuals for whom a construction project is carried out.

Regulations 4 and 5 set out the client's duty to make suitable arrangements for managing a project and maintaining and reviewing these arrangements throughout, so the project is carried out in a way that manages the health and safety risks. For projects involving more than one contractor, these regulations require the client to appoint a principal designer and a principal contractor and make sure they carry out their duties.

### MATS Group Definitions

#### **Intrusive Works**

Any works which involve breaking into the fabric of the building; this may introduce a risk of exposure to live services or substances, e.g. asbestos.

#### **Plug & Play Equipment**

Equipment having cables with terminated ends (e.g. three pin plugs) which, through design, pose minimal safety risk to the installer.

## 4 Application of the Regulations to the Industry

The definition of construction within the Regulations encompasses most of the 'site' work carried out on mast and tower portfolios within the telecommunications and broadcast industries.

MATS Group has determined that the following will not be classed as 'construction' activities: (risk-based approach)

- Installing cards and amplifiers
- Installing or upgrading software
- Placing telecommunications equipment (e.g. phones) on desks
- Installing any 'plug and play' equipment
- Moving equipment racks when there are no associated 'intrusive' or electrical works
- Surveying
- Mast and tower inspections

Appropriate Risk Assessments & Safe Systems of Work will still be required for the above activities.

## 5 Adoption of Client Role

Within the telecommunications and broadcast industry sector, many construction projects are carried out to enhance an existing service or provide a new service to a customer. In some cases, the ultimate customer is procuring a service which is provided from infrastructure and sites they do not own or manage – for example, a television broadcaster requiring additional channels. In this case it is more practical for the company which owns the infrastructure used to broadcast the television channel to act as Client as defined in the CDM Regulations. In these scenarios clarification around who should be the Client should be resolved by those involved at the earliest stage possible. By consider who:

- (a) ultimately decides what is to be constructed, where, when and by whom;
- (b) commissions the design and construction work (the employer in contract terminology);
- (c) initiates the work;
- (d) is at the head of the procurement chain;
- (e) engages the construction contractors.

If there is still doubt, then all the possible clients can appoint one of them as the only client for the purposes of CDM2015 (see Regulation 4 (8)). Someone will always be the Client – it is in the interests of all possible contenders to identify who it is.

## 6 Notification of Construction Projects

When acting in the role of 'Client' MATS Group members will notify any project taking place on a single site if the duration exceeds 30 working days and will have more than 20 workers working simultaneously on the site OR if work on the site exceeds 500-person days.

Works on multiple sites (multi-site projects) which exceed these thresholds will not be notified. As notification does not trigger any additional duties, the MATS Group has determined that efforts are better spent managing risk than performing calculations to determine whether multi-site projects require notification. MATS Group members will collaborate and share project programmes with the HSE on request to facilitate inspections.

## 7 Role of Contractor

The Regulations define a contractor as being anyone who "carries out, manages or controls construction work".

The MATS Group has agreed that the following roles would NOT be deemed to be a 'contractor':

- Gate or equipment room opener
- Clerk of Works

- Site Attende (old rigging supervisor role)

The MATS Group test for determining whether a person or entity is a contractor or not is:

- Putting aside organisational process and site provider requirements- "could the construction works actually be completed if the person or entity was removed?"

Based on this test, the MATS Group determines that the following ARE classed as 'contractors':

- Switching engineers (those who have to attend site to turn off or reduce the power of services)
- MEWP companies
- Crane companies

(The above list is not exhaustive).

## **8 Role of Principal Designer (PD)**

If a MATS Group organisation outsources the PD role, it must ensure that the outsource organisation is suitably involved from an early stage in the planning phase and can have influence over the design.

The L153 - Regulation 11 sets out the duties a principal designer has during the pre-construction phase. They include requirements to plan, manage, monitor and coordinate health and safety during this phase and to liaise with the principal contractor in providing information relevant for the planning, management and monitoring of the construction phase.

The principal designer can be an organisation or an individual that has:

- (a) the technical knowledge of the construction industry relevant to the project;
- (b) the skills, knowledge and experience to understand, manage and coordinate

the pre-construction phase, including any design work carried out after construction begins. Where the principal designer is an organisation, it must have the organisational capability to carry out the role.

Guidance previously stated that "you can combine your role as PD with other roles such as Project Manager. This will assist with integration of H&S within a project"; MATS Group members may appoint Project Managers in this capacity and a person or organisation who have the skills, knowledge, experience and training to act as CDM advisor to help the appointed PD fulfil their duty holder responsibilities as part of a 'Principal Designer'.

The PD role can be transferred between companies or can be discharged by different people within the MATS Group (Client) organisation. If transferring between companies, the change of PD needs to be recorded in writing.

## **9 Co-operation & Co-ordination**

It is MATS Group members' intention that co-ordination and consultation requirements at a site level be commensurate with the risk profile, duration and complexity of the work. For short, low risk projects this may be a talk at the beginning of the day between work parties which does not need to be formally recorded.

Industry guidance stipulates, workers should be consulted on what is expected for smaller jobs and site-specific arrangements should be recorded in the CPP (Construction Phase Plan) for the works.

MATS Group members have site access controls in place which will mitigate conflicts and ensure that any incumbent contractor on site is made aware of others' works. However, if further contractor(s) do attend site, **with** the intention of carrying out works unrelated to that of the incumbent contractor (or principal contractor), then this will be classed as unrelated and separate project work which will not trigger additional duties in terms of appointment of PD and PC (where this was not previously required). If working within the same area (and potentially impacting on each other), the construction phase plans (CPP) must be updated and these contractors must co-operate and co-ordinate their activities to manage the risk (see example box below).

Example: -

Scenario

Contractor A is carrying out mast painting works on behalf of the site owner at the 'Beacon Moor' site; the works will last approximately 10 days. Contractor B needs to attend site on behalf of a mobile network operator (which has equipment at 'Beacon Moor' through a site share arrangement) to rectify a ground level fault on its transmitter; the works are likely to take 2 hours.

Outcome

This consists of two distinctly separate packages of work for different 'Clients' and will not trigger the appointment of a PD and PC. The site owner (through its site access system) will inform Contractor A of the transmitter fault and Contractor A will advise whether it is feasible for Contractor B to access the site safely. If the transmitter fault works can be carried out, Contractor A will brief Contractor B on applicable site-specific risks or risks associated with its works. Contractor B will inform Contractor A of any risks associated with its works.

Both Contractor A and Contractor B will update their CPHSPs to reflect any additional significant risk of having interactions with the other.

A likely control measure that would be included in the CPHSP would be phasing of the works so that painting works on the mast are not taking place at the same time as transmitter works at ground level.

## 10 Emergencies/Disasters

Due to the nature of the telecommunications and broadcast industries, a loss of communications due to an event at a mast or tower site could have an impact on public safety and national security. MATS Group members (as Client) may therefore need to initiate 'construction' projects immediately and without having first formally notified the HSE. Where this is the case, the initial critical risks will be dealt with and when the situation is stabilised, the client will make the necessary appointments and notify the HSE where necessary.

## 11 Related Documents

- The Construction (Design and Management) Regulations 2015
- Draft Guidance on The Construction (Design & Management) Regulations 2015 L153
- CONIAC Industry Guidance for Workers
- MATS Group Guidance Note GN-008 – Mast and Tower Rescue – Guidance for Radio and Rigging Teams working on Radio Structures

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*The information in this document does not absolve contractors or suppliers from their responsibility to identify and comply with all relevant legislation, regulations and legal standards nor does it take precedence over laws, regulations and external standards.*