

Safety, Health and Welfare at Work (Construction) Regulations 2013

Part 1: Guidance for Homeowners

This guidance is only a draft and is based on the initial proposed changes to the Construction Regulations which are planned to come into effect next year. They are subject to change until the Regulations are finalised.

Summary Quick Guide - Amendment of Definition of 'Client' to Include Domestic Homeowners

Why are these changes happening?

- **Improve worker safety** – there have been 11 fatalities and many more serious injuries on domestic construction sites in the past three years. Construction workers are entitled to the highest standards of health and safety in their workplaces.
- **Reduce shadow economy** in construction – bringing significant benefits to the exchequer, the construction industry and the economy at large
- **Avoid large fines for the taxpayer** – Ireland faces infringement proceedings if we do not make these changes. Penalties on the taxpayer as well as legal costs could be very substantial.
- **Reduce administrative burden** – before the changes come into effect, the HSA will complete a review of the general construction regulations and changes will be made to ensure that the administrative and regulatory burden on all clients is reduced in so far as possible, while maintaining standards.

I am a domestic homeowner undertaking construction works – what new duties do I have?

The precise nature of the new obligations will be informed in part by the consultation process that is starting today. However based on current proposals, with effect from 1st June 2013, homeowners carrying out construction works will have met their duties if they follow three straightforward steps:

1. **Take reasonable steps to ensure that all designers and contractors are competent to carry out their tasks.** This duty only applies in the case of appointments made by the homeowner him/herself, and not in the case of subcontractors. It can be fulfilled by asking a small number of straightforward questions. There is also a legal obligation on the contractors to demonstrate their competence to the homeowner.
2. (Only in more complicated cases where the project involves two or more contractors, where there is a 'particular risk' (eg close to power lines/wells/tunnels) or where the project takes longer than 30 days). **Appoint a 'Project Supervisor Design Process (PSDP) and a 'Project Supervisor Construction Stage' (PSCS).** Where the duty arises, in most cases the PSDP will be the architect/engineer and the PSCS will be the main contractor, and the duties to be carried out by the Project Supervisors for the most part involve tasks that they are performing already. Making the appointment will be a matter of asking a number of straightforward questions and completing an appointment form.

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- 3. Retain a safety file.** The Project Supervisor Design Process will have an obligation to produce a safety file and give it to the homeowner at the end of the works. The homeowner will have a duty to retain the file and make it available to anybody carrying out works in future. Again, this duty only arises in more complicated construction projects where there are two or more contractors, more than 30 days duration and/or a 'particular risk'.

Introduction

This brief guide outlines the responsibilities, as a result of the Safety, Health and Welfare at Work (Construction) Regulations 2013 (the Construction Regulations), on a person carrying out construction work on their own domestic dwelling. These Regulations cover paid occupational work only and do **not** apply to DIY or work undertaken by the homeowner themselves.

Construction work is a high risk activity and as such there are specific requirements set out in European law on those who engage people to carry out construction work as well as on the construction workers themselves. The Construction Regulations put these requirements of the European Directive into Irish law.

Under these Regulations clients have to appoint project supervisors. The role of the project supervisors is very important as they co-ordinate the work of designers and contractors to make sure the work is completed in a safe manner. Remember when works are occurring in or near the family home it is essential to ensure the works won't pose a hazard to you and your family.

What is Construction Work under the Regulations?

Examples of construction work you may have completed on your house, which may come within these regulations, would include:

1. Building a new house or an extension, porch or garage
2. An attic conversion
3. Re-fitting a kitchen etc.
4. Re-slating a roof
5. Getting solar panels or skylight fitted

Tasks that are **not considered** construction work would include:

- Routine home DIY
- Grass cutting
- Painting your garden fence
- Cleaning your windows
- Replacing your locks
- Getting new blinds fitted

The HSA has guidance on the definition of construction work available at www.hsa.ie

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Am I a Client?

You are a client if you hire a professional builder to carry out construction work for you.

You are not a client if the work is DIY or being done on a non-payment basis.

If I am a Client what must I do?

The main duties in the Construction Regulations for you are:

1. Competency:

Anybody you use to carry out design or construction work must be competent to carry out the work and must allocate adequate resources to ensuring that the work can be carried out in a safe manner. There is a legal duty on these appointed persons to demonstrate to you, the client, that they are competent to carry out the work and have, or will, allocate the necessary resources to do so in a safe manner. This duty only arises in the case of appointments you make yourself – in the case of subcontractors appointed by the main contractor, the duty will fall on that contractor. The HSA has a checklist of questions (see Appendix) to assist you in fulfilling your obligations

2. Appoint Supervisors:

You must appoint project supervisors if:

- There are more than 1 contractor involved in the work or
- There is a particular risk or
- The work is going to last more than 30 days (or 500 person days)

Example 1: You hire a block-layer to build a wall in your garden. There is only one contractor, there is no particular risk and the work will last 5 days. In this case there is no requirement to appoint project supervisors.

Example 2: You are getting an extension built to the side of your house. There will be a number of contractors, there are particular risks involved, and the work is scheduled to last 100 days. You must make written appointments of project supervisors.

How do I appoint Project Supervisors?

The appointments must be made in writing at the start of the design and the start of the construction stages. These appointments must also be accepted in writing by the Project Supervisors. There is a template form available for this, a draft of which is available at www.hsa.ie.

Who do I appoint as Project Supervisors?

There is a duty to appoint a 'Project Supervisor Design Process' ('PSDP') who will usually be the architect/engineer, and a 'Project Supervisor Construction Stage' ('PSCS'), who will

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generally be the main contractor. The HSA has prepared a checklist of simple questions to ask before making the appointment, which is set out below in the Appendix.

3. Keep Safety File:

If your project requires appointments of project supervisors then a safety file must be produced. This file will be produced by the design project supervisor and should contain all the necessary information required to safely maintain the building/structure and have the necessary information so that anybody carrying out future work on the structure can do so in a safe manner. This file is given to the client at the end of the works. When this occurs you keep this file and should make it available to anybody carrying out future works on the building/structure.

Building using a 'Contractor'

In many cases a homeowner will engage an architect or engineer to design construction work and a 'builder' or 'main contractor' to carry out the work. In this scenario it would be likely that the homeowner would appoint the architect or engineer as the design project supervisor and the builder as the construction project supervisor. The project supervisors have various safety related duties to fulfil for the project particularly around co-ordination of the works and the co-operation of the workers involved in the project.

'Direct Labour' Approach

These Regulations will affect the practice of building a house by 'direct labour'. The term 'Direct Labour' refers to the practice where a client decides not to engage a main builder and instead organises the different trades / contractors to carry out the works themselves. These new Regulations require that a project supervisor oversees the co-ordination of the various designers and contractors and ensures co-operation between them so that the works can be carried out safely. It is possible to appoint yourself as a project supervisor however you must ensure that you have the necessary knowledge and competency to fulfil the duties. Remember the project supervisors control key safety decisions on site and failure to discharge this role could lead to serious and even fatal accidents. Also breaches of these duties could lead to criminal prosecution.

What is a particular risk?

The term 'particular risk' comes from the European Directive governing construction work which gives a list of hazardous works. Items on the list that could be of relevance to a typical domestic construction project include:

- Works that put a person at risk of falling from height, burial under an earthfall or engulfment in swampland where the risk is aggravated by the nature of the work
- Works near high voltage power lines and works exposing a person to the risk of drowning
- Works on wells, underground earthworks and tunnels
- Work involving the assembly or dismantling of heavy prefabricated components

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The full list is available in Schedule 1 of the Construction Regulations. It is worth noting that the list is non-exhaustive so any other work which poses a particularly high risk to the persons carrying it out should also be considered.

What duties does a Project Supervisor have?

The principal duties currently are set out below.

The duties of the Project Supervisor for the Design Process(PSDP) are:

- Identify hazards arising from the design or from the technical, organisational, planning, or time related aspects of the project and where possible, eliminate the hazards or reduce the risk;
- Communicate necessary control measures, design assumptions, or remaining risks to the Project Supervisor Construction Stage (PSCS) so they can be dealt with in the Safety and Health Plan;
- Ensure that the work of designers is co-ordinated to ensure safety;
- Organise co-operation between designers;
- Prepare a written safety and health plan for any project where construction will take more than 500 person days or 30 working days or there is a Particular Risk and deliver it to the client prior to tender and a safety file for the completed structure and give it to the client;
- The PSDS may issue directions to designers or contractors or others.

The duties of the Project Supervisor for the Construction Stage (PSCS) are:

- Co-ordinate the implementation of the construction regulations by contractors and the reporting of accidents to the Authority;
- Organise co-operation between contractors and the provision of information;
- Notify the Authority before construction commences where construction is likely to take more than 500 person days or 30 working days;
- Provide information to the site safety representative;
- Co-ordinate the checking of safe working procedures; the measures to restrict entry on to the site and the provision and maintenance of welfare facilities;
- Co-ordinate arrangements to ensure that craft, general construction workers, and security workers have a Safety Awareness card, i.e. Safe Pass and a Construction Skills card where required and the appointment of a site safety representative where there are more than 20 persons on site;
- Appoint a safety adviser where there are more than 100 on site;
- Provide all necessary safety file information to the PSDS;
- Monitor the compliance of contractors and others and take corrective action where necessary;
- The PSCS may issue directions to designers or contractors.

A comprehensive statement of the duties of project supervisors is set out at the following document:

http://www.hsa.ie/eng/Publications_and_Forms/Publications/Construction/Guidelines_on_Procurement_Const_regs_2006.pdf

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Common Sense Health and Safety Precautions

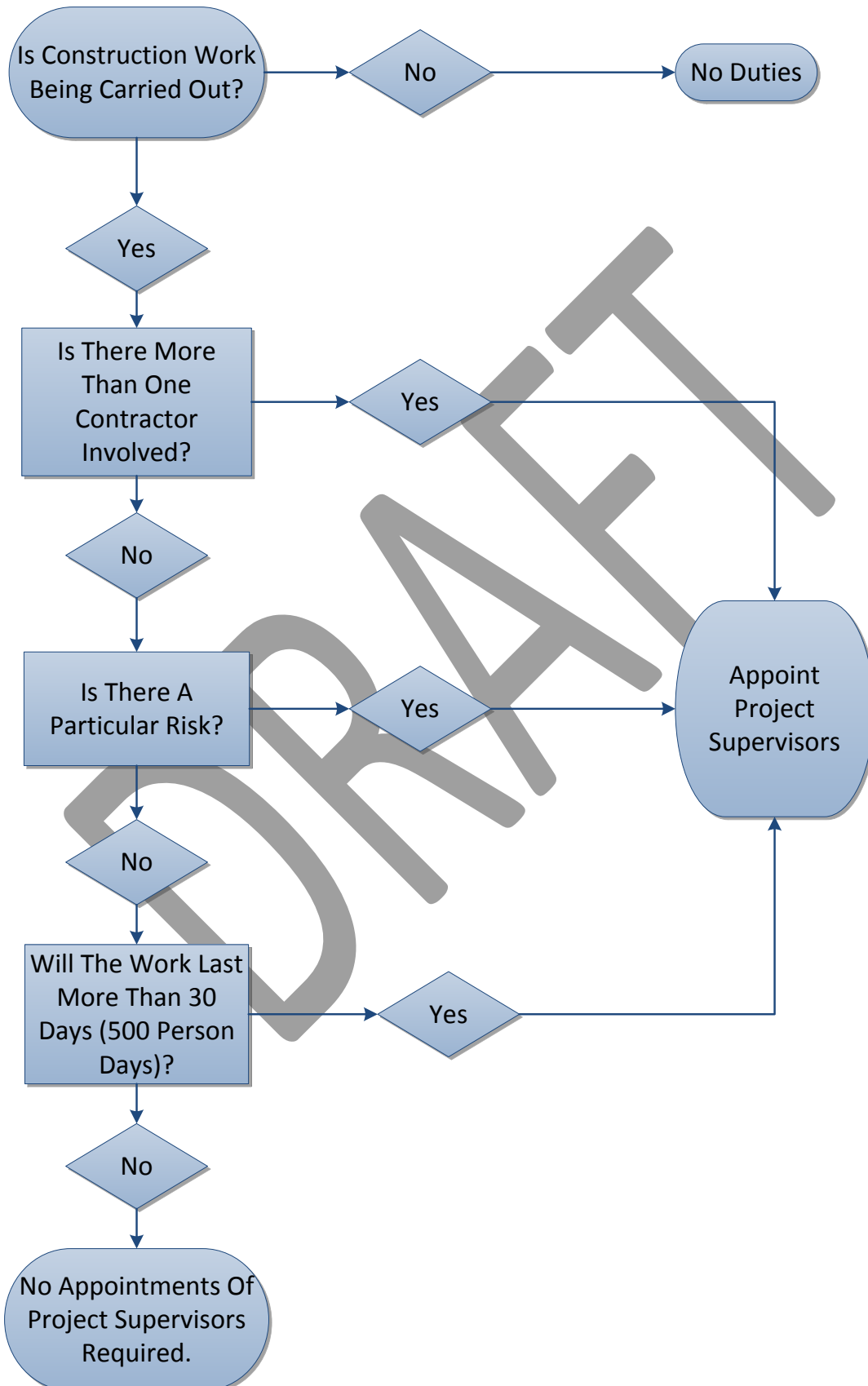
When you are having construction work done you may be bringing builders and the workplace into your home. This can affect your safety and that of your family. The following precautions should be taken:

- Employ the right people for the work, designers and builders
- Discuss safety with your builder before work starts
- If you have children, warn them of the dangers and make sure they stay out of the site
- Where possible the works should be segregated from your home life
- The works area should be secured at the end of each day
- If you think that works are unsafe, discuss your concerns with your builder
- If you still have queries in relation to construction safety, you can contact the Health and Safety Authority on Lo-call 1890-289-389

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What Do I Have To Do As A Client?



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APPENDIX

Client Checklist - competent appointments

Asking these types of questions will help you assess if your designers, contractors or project supervisors are competent to carry out the work you require.

For the Project Supervisor Process / Designer:

- Are you competent to carry out this work and do you have a recognised qualification?
- Are you a member of a professional body i.e. IEI, RIAI, ACEI?
- Have you done work like this project before?
- Have you completed any safety courses?
- Can you show me an example of a previous safety file you have done?
- Have you ever been prosecuted by the HSA?

For Project Supervisor Construction Stage:

- Are you competent to carry out this work and have you completed work like this project before?
- Do your workers have Safepassⁱ training?
- Have your foremen/managers completed any safety related courses?
- Are you a member of a professional body?
- Do you have a safety statement?
- Have you ever been prosecuted by the HSA?

For Contractor(s):

- Are you competent to carry out this work?
- Have you done work like this project before?
- Do your workers have Safepass training?
- Are your workers qualified?
- Have your foremen/managers completed any safety related courses?
- Do you have a safety statement?
- Have you ever been prosecuted by the HSA?

For Supervisors/Contractors - References regarding past work:

- Can I have references for previous work or visit previous work that you have done?
- Then ask the people who have had work done previously,
 - Were you happy with the quality of design, of the work itself, and of the supervisory work done?
 - Did they arrive on time and did they finish the job on time?
 - Did any accidents occur?

Some other more general questions (Not related to Health and Safety but helpful)

- Have you a tax clearance certificate?
- Have you insurance?

ⁱ SafePass is a statutory safety awareness course for construction workers in Ireland.

These type of questions allow you to assess if your construction personnel are conscientious, competent and reliable and in general compliant with legal requirements. If so you will probably find that they will be health and safety compliant too. The HSA have existing advice in this area for homeowners.

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