

NEBOSH National General Certificate Unit NGC1 - Management of Health and Safety

Introduction

This Supplement contains updates to your study material for Unit NGC1 of the NEBOSH Certificate. Please read it carefully.

Element 1: Foundations in Health and Safety

The Legal Framework for Regulating Health and Safety

In the **KEY INFORMATION** box at the beginning of this main section, the eleventh bullet point has been amended to read:

- “Successful prosecution of a company or an individual under **HSWA** can lead to unlimited fines and/or imprisonment up to 6 months at Magistrates’ Court, or unlimited fines and/or 2 years’ imprisonment at Crown Court.”

Criminal Law

Failure to Comply

In this subsection, the first bullet point has been amended to read:

- “Magistrates’ Court: unlimited fine and/or 6 months’ imprisonment.”

Penalties

In this subsection, the first bullet point has been amended to read:

- “Magistrates’ Court:
 - Unlimited fine and/or
 - 6 months’ prison*.”

The second paragraph has also been amended and now reads:

“Similar penalties may be imposed by the equivalent courts in Scotland. These penalties are set out in the **Health and Safety (Offences) Act 2008*** as modified by the **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015.**”

Civil Law

Tort of Negligence

At the end of this subsection, the following new paragraph has been added:

“The **Social Action, Responsibility and Heroism Act 2015 (SARAH Act)** effectively creates possible additional defences in a civil court of law. Basically, where negligence is alleged, the court needs to take account of whether the person was acting either to benefit society/individuals, acting responsibly or acting heroically. However, these tests have not yet entered into legal force.”

The Health and Safety at Work, Etc. Act 1974

The Employer’s Duty to Others

The second paragraph under this subheading has been amended to read:

“Section 3 also places the same duty on the **self-employed**. They must carry out their work so that they do not create risk to themselves or others. The **Deregulation Act 2015** will exempt many self-employed people from Section 3 of **HSWA**. However, you should note that the relevant section of this Act has not yet entered into legal force.”

Contractor Management

In the **KEY INFORMATION** box at the beginning of this main section, the last two bullet points have been replaced by the following new bullet points:

- “The **Construction (Design and Management) Regulations 2015 (CDM)** impose a framework for the management of construction projects (both non-domestic and domestic). For projects involving more than one contractor, the **CDM Regulations** identify six duty holders who each have specific duties assigned to them: the client, principal designer, designers, principal contractor, contractors and workers.
- The regulations require the preparation of a Construction Phase Plan and, where the project involves more than one contractor, a Health and Safety File for the finished structure.
- Projects over 30 working days in duration and involving more than 20 workers at any one time, or involving over 500 worker days must be notified to the HSE by the client.”

The Client/Contractor Relationship

The second paragraph under this subheading now reads:

“This section outlines some simple principles for the management of the contractor/client relationship. It then moves on to the specific issue of the management of construction projects under the **Construction (Design and Management) Regulations 2015 (CDM)**.”

Management of Construction Projects

The second paragraph under this subheading has been amended to read as follows:

“All construction projects are subject to the **Construction (Design and Management) Regulations 2015 (CDM)**. These regulations are split into various parts, some of which deal with the practical control of construction work. The following section deals with projects involving more than one contractor where all parts of the regulations apply. (Note that reference to ‘more than one contractor’ refers to more than one contractor organisation, not more than one individual worker.)”

Notification

The text under this subheading has been amended to read as follows:

“A notifiable project is one where the construction phase is planned to:

- last over 30 working days and involve more than 20 workers at any one time; or
- involve more than 500 worker days.

If a project falls into one or both of these categories, then a notification has to be sent by the client to the HSE, detailing:

- The address of the construction site.
- Brief description of project and construction work involved.
- Contact details of the client.
- Contact details of the principal designer.
- Contact details of the principal contractor.
- Planned date for the start of the construction phase and its planned duration.
- Time allowed for planning and preparation for construction work.
- Estimated maximum number of people at work on the site.”

CDM Duty Holders

This subsection has been replaced by the following revised subsection:

“CDM Duty Holders

For notifiable projects, the **CDM Regulations** identify six duty holders who have a part to play in ensuring safety:

- The **client** - for whom the project is being carried out (this can be commercial or domestic).
- The **principal designer** - who plans and co-ordinates health and safety in the pre-construction phase of the project.
- **Designers** - who work under the control of the **principal designer**.
- The **principal contractor** - who plans and co-ordinates health and safety during the construction phase of the project.
- **Contractors** - who work under the control of the **principal contractor**.
- **Workers** - who undertake the construction work.

The regulations also require the preparation of a ‘Construction Phase Plan’ for all construction work and a ‘Health and Safety File’ for the finished structure if the construction work involved more than one contractor.

The regulations assign the following duties to each party:

- The **client** should ensure that:
 - Suitably competent designers and contractors are appointed.
 - Adequate pre-construction information is provided to the other duty holders.
 - Principal designers and principal contractors carry out their duties.
 - A Construction Phase Plan for the project is prepared by the principal contractor before work starts.
 - The Health and Safety File is prepared by the principal designer for the building/structure and that this is made available for future reference.
 - Suitable welfare facilities are available during the construction phase.
 - Notifiable projects are notified to the HSE.

CDM applies to all construction work carried out for both commercial and domestic clients. However, for domestic clients, the clients’ duties pass to the contractor or principal contractor (or principal designer where a written agreement has been entered into).

- **Designers** should ensure that:
 - The client is aware of his duties under the **CDM Regulations**.
 - Their design eliminates or minimises health and safety risks created by the project.
 - Design information is passed to the principal designer, client and contractors.
 - They communicate, co-operate and co-ordinate with other designers and contractors.
- The **principal designer** should ensure that:
 - They plan, manage, monitor and co-ordinate health and safety during the pre-construction phase of the project.
 - The client is advised on the bringing together of pre-construction information that will be useful to designers and contractors.
 - The design eliminates or minimises health and safety risks created by the project.
 - Proper communication, co-operation and co-ordination takes place during the pre-construction phase.
 - The Health and Safety File is prepared and passed to the client at the end of the project.
- The **principal contractor** should ensure that:
 - The construction phase of the project is adequately planned, managed, monitored and co-ordinated.
 - A Construction Phase Plan for the project exists and is kept up to date.
 - The site is secure.
 - All workers have access to suitable welfare facilities.
 - All contractors receive site-specific induction training.
 - Workers are consulted on site health and safety issues.

- **Contractors** should ensure that:
 - The client is aware of his duties under the **CDM Regulations**.
 - They plan, manage and monitor their own work to control safety risks.
 - Their workers have the skills, knowledge, training and experience to carry out their work safely.
 - They provide appropriate information, instruction and supervision to their workers.
- **Workers** should ensure that they:
 - Take reasonable care of their own health and safety and the health and safety of others whom their work might affect.
 - Report anything that they see that could affect their own or others' health and safety.
 - Co-operate with all other duty holders."

The Construction Phase Plan

The text under this subheading has been revised and now reads as follows:

"The Construction Phase Plan is the health and safety management plan for the construction phase of the project.

The plan is the responsibility of the principal contractor (or contractor if the project involves only one contractor).

Typical contents would include:

1. Project description:

- Including key project team members.

2. Management of the work:

- Site rules.
- Arrangements for ensuring co-operation between parties.
- Arrangements for consultation.
- Site induction.
- Welfare facilities.
- Fire and emergency procedures.

3. Arrangements for controlling significant site risks:

- Safety risks, such as fall prevention.
- Health risks, such as removal of asbestos."

The Health and Safety File

In this subsection, the penultimate bullet point has been amended to read:

- "Nature, location and marking of significant services."

Then, at the end of the subsection, the following new paragraph has been added:

"This file is created by the principal designer and passed to the client on completion of the project. The client must then keep the file up to date and make it available to workers who need to know its contents (such as future contractors)."

Revision Questions

Question 27 is now:

"What are the main duties of the following parties under the **CDM Regulations**?"

- (a) The client.
- (a) The principal designer.
- (a) The principal contractor."

Summary

In this main section, the last bullet point now reads:

- “Described how the **CDM Regulations** impose a framework for the management of construction projects; the six duty holders identified for projects involving more than one contractor; and the requirements to prepare a Construction Phase Plan, a Health and Safety File and notify of larger projects.”

Suggested Answers to Revision Questions

Unit NGC1 Element 1: Foundations in Health and Safety

Question 26

The answer is now:

“Projects where the construction phase is over 30 working days’ duration and involves more than 20 workers at any one time; or involves more than 500 worker days.”

Question 27

The answer is now:

- “(a) The client must ensure that:
- Suitably competent designers and contractors are appointed.
 - Adequate pre-construction information is provided to the other duty holders.
 - Principal designers and principal contractors carry out their duties.
 - A construction phase plan for the project is prepared by the principal contractor before work starts.
 - The health and safety file is prepared by the principal designer for the building/structure and that this is made available for future reference.
 - Suitable welfare facilities are available during the construction phase.
 - Notifiable projects are notified to the HSE.
- (b) The principal designer must ensure that:
- They plan, manage, monitor and co-ordinate health and safety during the pre-construction phase of the project.
 - The client is advised on the bringing together of pre-construction information that will be useful to designers and contractors.
 - The design eliminates or minimises health and safety risks created by the project.
 - Proper communication, co-operation and co-ordination takes place during the pre-construction phase.
 - The health and safety file is prepared and passed to the client at the end of the project.
- (c) The principal contractor must ensure that:
- The construction phase of the project is adequately planned, managed, monitored and co-ordinated.
 - A Construction Phase Plan for the project exists and is kept up to date.
 - The site is secure.
 - All workers have access to suitable welfare facilities.
 - All contractors receive site-specific induction training.
 - Workers are consulted on site health and safety issues.”