An approach to interpreting the term *Construction Work*

Q1. How do I decide if an activity is *construction work*?

A. The definition of *construction work* as set out in Reg 2(1) in CDM 2015 is broad, non-exhaustive and is largely the same as it was in CDM 2007. Construction work may take place within many industry sectors and CDM will apply if the activity falls within the definition. Whilst it is not HSE's role to provide a definitive interpretation (which only a court can do), there follows general pointers as to how it should be construed in cases of uncertainty.

There are two steps to determining whether an activity falls within the definition of *construction work*, and therefore whether CDM 2015 applies.

Step 1 – the project/activity must fall within one or more of the three categories set out in the definition, those being the *carrying out of any;*

- *building work,*
- *civil engineering work, or*
- *engineering construction work*.*

If the activity falls within any of these three categories, CDM 2015 **does** apply.

If the activity does **not** fall into any of the three categories, CDM 2015 **does not** apply and Step 2 is not relevant.

*****Note***: *The Engineering Construction Industry Association (ECIA) sets out* ***engineering construction work*** *as the design, construction and maintenance of process plant across the oil and gas, water, environmental, steel and metal, cement, glass, paper, brewing and distillation, food, power generation, nuclear waste reprocessing, pharmaceutical production, petrochemical and chemical sectors.*

Step 2 - If the activity falls into one of the three main categories, then the list of specific construction activities in (a) - (e) are relevant and provide the second stage to determining if an activity is construction work.

When considering (a) – (e), note that the activities in each relate to specific actions in respect of a structure within the project, and should not be considered as interchangeable.

There may be activities similar to those listed which may be considered, but they should be seen in the context of the functions, and not just 'made to fit'.

(a) *the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure, or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;*

This relates to activities involved with the building, alteration, upkeep etc. decommissioning, demolition or dismantling of a structure.

(b) *the preparation for an intended structure, including site clearance, exploration, investigation … and excavation …, and the clearance or preparation of the site or structure for use or occupation at its conclusion;*

This relates to the preparation of a site for an intended structure and the preparation of the site or structure for its occupation or use at its conclusion.

(c) *the assembly on site of prefabricated elements to form a structure or the disassembly on site of the prefabricated elements which, immediately before such disassembly, formed a structure;*

This relates to the assembly or disassembly of prefabricated elements on site to form or take apart a structure.

(d) *the removal of a structure, or of any product or waste resulting from demolition or dismantling of a structure, or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure;*

This relates to the removal of a structure or waste from demolition or dismantling of a structure.

(e) *the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure;*

This relates to the installation, commissioning, maintenance, repair or removal of a system of services (i.e. heating system, plumbing system) normally fixed to or within a structure rather than an individual component of any such system.

Note: The definition provides for certain activities that are exempt from CDM 2015. These are:

site surveys; pre-construction archaeological investigations and the exploration for, or extraction of, mineral resources, or preparatory activities carried out at a place where such exploration or extraction is carried out.