

Subsidiary Legislation made under ss. 58 and 81.

Construction (Design, Management, Health, Safety and Welfare) Regulations 1998

LN. 1998/056

Commencement **1.10.1998**

Amending enactments	Relevant current provisions	Commencement date
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Act. 2017-10	Sch. 2	13.6.2018

Transposing:
Directive 92/57/EEC

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In exercise of the powers conferred on him by sections 58 and 81 of the Factories Act, and of all other enabling powers, and for the purpose of transposing into the law of Gibraltar Council Directive 92/57/EEC, the Governor has made the following regulations –

Title and commencement.

1. These Regulations may be cited as the Construction (Design, Management, Health, Safety and Welfare) Regulations 1998 and come into operation on the 1st October, 1998.

Interpretation.

2.(1) In these Regulations, unless the context otherwise requires–

“agent” in relation to any client means any person who acts as agent for a client in connection with the carrying on by the person of a trade, business or other undertaking (whether for profit or not);

“cleaning work” means the cleaning of any window or any transparent or translucent wall, ceiling or roof in or on a structure where such cleaning involves a risk of a person falling more than 2 metres;

“client” means any person for whom a project is carried out, whether it is carried out by another person or is carried out in-house;

“competent authority” means the Minister with responsibility for employment or such other person or body designated by the government from time to time by notice in the Gazette as the competent authority;

“construction phase” means the period of time starting when construction work in any project starts and ending when construction work in that project is completed;

“construction site” means a site at which construction work is actually being carried out;

“construction work” means the carrying out of any building, civil engineering or engineering construction work and includes any of the following–

- (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) de-commissioning, demolition or dismantling of a structure,

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- (b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and laying or installing the foundations of the structure,
- (c) the assembly of prefabricated elements to form a structure or the disassembly of prefabricated elements which, immediately before such disassembly, formed a structure,
- (d) the removal of a structure or part 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 a structure, and
- (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,

but does not include the exploration for or extraction of mineral resources or activities preparatory thereto carried out at a place where such exploration or extraction is carried out;

“contractor” means any person who carries on a trade, business or other undertaking (whether for profit or not) in connection with which he—

- (a) undertakes to or does carry out or manage construction work, or
- (b) arranges for any person at work under his control (including, where he is an employer, any employee of his) to carry out or manage construction work;

“design” in relation to any structure includes drawing, design details, specification and bill of quantities (including specification of articles or substances) in relation to the structure;

“designer” means any person who carries on a trade, business or other undertaking in connection with which he—

- (a) prepares a design, or
- (b) arranges for any person under his control (including, where he is an employer, any employee of his) to prepare a design,

relating to a structure or part of a structure;

“developer” shall be construed in accordance with regulation 5(1);

“the directive” means Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites and includes any changes made to that directive to reflect technical or scientific change and any further directives made for that purpose;

“domestic client” means a client for whom a project is carried out not being a project carried out in connection with the carrying on by the client of a trade, business or other undertaking (whether for profit or not);

“health and safety file” means a file, or other record in permanent form, containing the information required by virtue of regulation 14(d);

“health and safety plan” means the plan prepared by virtue of regulation 15;

“planning supervisor” means any person for the time being appointed under regulation 6(1)(a);

“principal contractor” means any person for the time being appointed under regulation 6(1)(b);

“project” means a project which includes or is intended to include construction work;

“relevant statutory provisions” means those provisions of the Factories Act and regulations made thereunder as apply in the context;

“structure” means—

- (a) any building, steel or reinforced concrete structure (not being a building), railway line or siding, tramway line, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipe-line (whatever, in either case, it contains or is intended to contain), cable, aqueduct, sewer, sewage works, gasholder, road, airfield, sea defence works, drainage works, earthworks, lagoon, dam, wall, caisson, mast, tower, pylon, underground tank, earth retaining structure, or structure designed to preserve or alter any natural feature, and any other structure similar to the foregoing,
- (b) any formwork, falsework, scaffold or other structure designed or used to provide support or means of access during construction work, or

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- (c) any fixed plant in respect of work which is installation, commissioning, de-commissioning or dismantling and where any such work involves a risk of a person falling more than 2 metres.

(2) In determining whether any person arranges for a person (in this paragraph called "the relevant person") to prepare a design or to carry out or manage construction work regard shall be had to the following, namely—

- (a) a person does arrange for the relevant person to do a thing where—
 - (i) he specifies in or in connection with any arrangement with a third person that the relevant person will do that thing (whether by nominating the relevant person as a subcontractor to the third person or otherwise); or
 - (ii) being an employer, it is done by any of his employees in-house;
- (b) a person does not arrange for the relevant person to do a thing where—
 - (i) being a self-employed person, he does it himself or, being in partnership, it is done by any of his partners;
 - (ii) being an employer, it is done by any of his employees otherwise than in-house; or
 - (iii) having arranged for a third person to do the thing, he does not object to the third person arranging for it to be done by the relevant person, and the expressions "arrange" and "arranges" shall be construed accordingly.

(3) For the purposes of these Regulations—

- (a) a project is carried out in-house where an employer arranges for the project to be carried out by an employee of his who acts, or by a group of employees who act, in either case, in relation to such a project as a separate part of the undertaking of the employer distinct from the part for which the project is carried out;
- (b) construction work is carried out or managed in-house where an employer arranges for the construction work to be carried out or managed by an employee of his who acts or by a group of employees who act, in either case, in relation to such construction work as a separate part of the undertaking of the employer distinct from the part for which the construction work is carried out or managed; and

(c) a design is prepared in-house where an employer arranges for the design to be prepared by an employee of his who acts, or by a group of employees who act, in either case, in relation to such design as a separate part of the undertaking of the employer distinct from the part for which the design is prepared.

(4) For the purposes of these Regulations a project is notifiable if the construction phase—

(a) will be longer than 30 days; or

(b) will involve more than 500 person days of construction work;

and the expression "notifiable" shall be construed accordingly.

(5) Any reference in these Regulations to a person being reasonably satisfied—

(a) as to another person's competence is a reference to that person being satisfied after the taking of such steps as it is reasonable for that person to take (including making reasonable enquiries or seeking advice where necessary) to satisfy himself as to such competence; and

(b) as to whether another person has allocated or will allocate adequate resources is a reference to that person being satisfied that after the taking of such steps as it is reasonable for that person to take (including making reasonable enquiries or seeking advice where necessary)—

(i) to ascertain what resources have been or are intended to be so allocated; and

(ii) to establish whether the resources so allocated or intended to be allocated are adequate.

Application of Regulations.

3.(1) Subject to the following subregulations of this regulation, these Regulations apply to and in relation to construction work.

(2) Subject to subregulation (3), regulations 4 to 12 and 14 to 19 do not apply to or in relation to construction work included in a project where the client has reasonable grounds for believing that—

(a) the project is not notifiable; and

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- (b) the largest number of persons at work at any one time carrying out construction work included in the project will be or, as the case may be, is less than 5.
- (3) These Regulations apply to and in relation to construction work which is the demolition or dismantling of a structure.
- (4) Regulation 14(b) does not apply to projects in which no more than one designer is involved.
- (5) Regulation 16(1)(a) does not apply to projects in which no more than one contractor is involved.
- (6) Where construction work is carried out or managed in-house or a design is prepared in-house, then, for the purposes of subregulations (4) and (5), each part of the undertaking of the employer shall be treated as a person and shall be counted as a designer or, as the case may be, contractor, accordingly.
- (7) Except where regulation 5 applies, regulations 4, 6, 8 to 12 and 14 to 19 do not apply to or in relation to construction work included or intended to be included in a project carried out for a domestic client.

Clients and agents of clients.

- 4.(1) A client may appoint an agent or another client to act as the only client in respect of a project and where such an appointment is made the provisions of subregulations (2) to (5) apply.
- (2) No client may appoint any person as his agent under subregulation (1) unless the client is reasonably satisfied that the person he intends to appoint as his agent has the competence to perform the duties imposed on a client by these Regulations.
- (3) Where the person appointed under subregulation (1) makes a declaration in accordance with subregulation (4), then, from the date of receipt of the declaration by the competent authority, such requirements and prohibitions as are imposed by these Regulations upon a client apply to the person so appointed (so long as he remains as such) as if he were the only client in respect of that project.
- (4) A declaration in accordance with this subregulation—
 - (a) is a declaration in writing, signed by or on behalf of the person referred to in subregulation (3), to the effect that the client or agent who makes it will act as client for the purposes of these Regulations;

(b) shall include the name of the person by or on behalf of whom it is made, the address where documents may be served on that person and the address of the construction site; and

(c) shall be sent to the competent authority.

(5) Where the competent authority receives a declaration in accordance with subregulation (4), it shall give notice to the person by or on behalf of whom the declaration is made and the notice shall include the date the declaration was received by the competent authority.

(6) Where the person referred to in subregulation (3) does not make a declaration in accordance with subregulation (4), any requirement or prohibition imposed by these Regulations on a client is also imposed on him but only to the extent it relates to any matter within his authority.

Requirements on developer.

5.(1) This regulation applies where the project is carried out for a domestic client and the client enters into an arrangement with a person (in this regulation called "the developer") who carries on a trade, business or other undertaking (whether for profit or not) in connection with which—

- (a) land or an interest in land is granted or transferred to the client;
- (b) the developer undertakes that construction work will be carried out on the land; and
- (c) following the construction work, the land will include premises which, as intended by the client, will be occupied as a residence.

(2) Where this regulation applies, with effect from the time the client enters into the arrangement referred to in subregulation (1), the requirements of regulations 6 and 8 to 12 apply to the developer as if he were the client.

Appointments of planning supervisor and principal contractor.

6.(1) Subject to subregulation (6)(b), every client shall appoint—

- (a) a planning supervisor; and
- (b) a principal contractor,

in respect of each project.

(2) The client shall not appoint as principal contractor any person who is not a contractor.

(3) The planning supervisor shall be appointed as soon as is practicable after the client has such information about the project and the construction work involved in it as will enable him to comply with the requirements imposed on him by regulations 8(1) and 9(1).

(4) The principal contractor shall be appointed as soon as is practicable after the client has such information about the project and the construction work involved in it as will enable the client to comply with the requirements imposed on him by regulations 8(3) and 9(3) when making an arrangement with a contractor to manage construction work where such arrangement consists of the appointment of the principal contractor.

(5) The appointments mentioned in subregulation (1) shall be terminated, changed or renewed as necessary to ensure that those appointments remain filled at all times until the end of the construction phase.

(6) Subregulation (1) does not prevent—

- (a) the appointment of the same person as planning supervisor and as principal contractor provided that person is competent to carry out the functions under these Regulations of both appointments; or
- (b) the appointment of the client as planning supervisor or as principal contractor or as both, provided the client is competent to perform the relevant functions under these Regulations.

Notification of project.

7.(1) The planning supervisor shall ensure that notice of the project in respect of which he is appointed is given to the competent authority in accordance with subregulations (2) to (4) unless the planning supervisor has reasonable grounds for believing that the project is not notifiable.

(2) Any notice required by subregulation (1) shall be given in writing or in such other manner as the competent authority may from time to time approve in writing and shall contain the particulars specified in subregulation (3) or, where applicable, subregulation (4) and shall be given at the times specified in those subregulations.

(3) Notice containing such of the particulars specified in Schedule 1 as are known or can reasonably be ascertained shall be given as soon as is practicable after the appointment of the planning supervisor.

(4) Where any particulars specified in Schedule 1 have not been notified under subregulation (3), notice of such particulars shall be given as soon as is practicable after the appointment of the principal contractor and, in any event, before the start of construction work.

(5) Where a project is carried out for a domestic client then, except where regulation 5 applies, every contractor shall ensure that notice of the project is given to the competent authority in accordance with subregulation (6) unless the contractor has reasonable grounds for believing that the project is not notifiable.

(6) Any notice required by subregulation (5) shall—

- (a) be in writing or such other manner as the competent authority may from time to time approve in writing;
- (b) contain such of the particulars specified in Schedule 1 as are relevant to the project; and
- (c) be given before the contractor or any person at work under his control starts to carry out construction work.

Competence of planning supervisor, designers and contractors.

8.(1) No client may appoint any person as planning supervisor in respect of a project unless the client is reasonably satisfied that the person he intends to appoint has the competence to perform the functions of planning supervisor under these Regulations in respect of that project.

(2) No person may arrange for a designer to prepare a design unless he is reasonably satisfied that the designer has the competence to prepare that design.

(3) No person may arrange for a contractor to carry out or manage construction work unless he is reasonably satisfied that the contractor has the competence to carry out or, as the case may be, manage, that construction work.

(4) Any reference in this regulation to a person having competence extends only to his competence—

- (a) to perform any requirement; and

(b) to conduct his undertaking without contravening any prohibition, imposed on him by or under any of the relevant statutory provisions.

Provision for health and safety.

9.(1) No client may appoint any person as planning supervisor in respect of a project unless the client is reasonably satisfied that the person he intends to appoint has allocated or, as appropriate, will allocate adequate resources to enable him to perform the functions of planning supervisor under these Regulations in respect of that project.

(2) No person may arrange for a designer to prepare a design unless he is reasonably satisfied that the designer has allocated or, as appropriate, will allocate adequate resources to enable the designer to comply with regulation 13.

(3) No person may arrange for a contractor to carry out or manage construction work unless he is reasonably satisfied that the contractor has allocated or, as appropriate, will allocate adequate resources to enable the contractor to comply with the requirements and prohibitions imposed on him by or under the relevant statutory provisions.

(4) All contractors (including self-employed persons) on a construction site shall comply with the minimum requirements set out in Schedule 2 where the features of the site, the activity, the circumstances or a hazard are such as to make compliance necessary.

Start of construction phase.

10. Every client shall ensure, so far as is reasonably practicable, that the construction phase of any project does not start unless a health and safety plan complying with regulation 15(4) has been prepared in respect of that project.

Client to ensure information is available.

11.(1) Every client shall ensure that the planning supervisor for any project carried out for the client is provided (as soon as is reasonably practicable but in any event before the commencement of the work to which the information relates) with all information mentioned in subregulation (2) about the state or condition of any premises at or on which construction work included or intended to be included in the project is or is intended to be carried out.

(2) The information required to be provided by subregulation (1) is information which is relevant to the functions of the planning supervisor under these Regulations and which the client has or could ascertain by making enquiries which it is reasonable for a person in his position to make.

Client to ensure health and safety file is available for inspection.

12.(1) Every client shall take such steps as it is reasonable for a person in his position to take to ensure that the information in any health and safety file which has been delivered to him is kept available for inspection by any person who may need information in the file for the purpose of complying with the requirements and prohibitions imposed on him by or under the relevant statutory provisions.

(2) A client who disposes of his entire interest in the property of the structure complies with subregulation (1) if he delivers the health and safety file for the structure to the person who acquires his interest in the property of the structure and ensures such person is aware of the nature and purpose of the health and safety file.

Requirements on designer.

13.(1) Except where a design is prepared in-house, no employer may cause or permit any employee of his to prepare, and no self-employed person may prepare, a design in respect of any project unless he has taken reasonable steps to ensure that the client for that project is aware of the duties to which the client is subject by virtue of these Regulations and of any practical guidance issued from time to time by the competent authority with respect to the requirements of these Regulations.

(2) Every designer shall—

- (a) ensure that any design he prepares and which he is aware will be used for the purposes of construction work includes among the design considerations adequate regard to the need—
 - (i) to avoid foreseeable risks to the health and safety of any person at work carrying out construction work or cleaning work in or on the structure at any time, or of any person who may be affected by the work of such a person at work,
 - (ii) to combat at source risks to the health and safety of any person at work carrying out construction work or cleaning work in or on the structure at any time, or of any person who may be affected by the work of such a person at work, and
 - (iii) to give priority to measures which will protect all persons at work (who may carry out construction work or cleaning work at any time and all

persons who may be affected by the work of such persons at work) over measures which only protect each person carrying out such work;

- (b) ensure that the design includes adequate information about any aspect of the project or structure or materials (including articles or substances) which might affect the health or safety of any person at work carrying out construction work or cleaning work in or on the structure at any time or of any person who may be affected by the work of such a person at work; and
- (c) co-operate with the planning supervisor and with any other designer who is preparing any design in connection with the same project or structure so far as is necessary to enable each of them to comply with the requirements and prohibitions placed on him in relation to the project by or under the relevant statutory provisions.

(3) Subregulations 2(a) and (b) shall require the design to include only the matters referred to therein to the extent that it is reasonable to expect the designer to address them at the time the design is prepared and to the extent that it is otherwise reasonably practicable to do so.

Requirements on planning supervisor.

14. The planning supervisor appointed for any project shall—

- (a) ensure, so far as is reasonably practicable, that the design of any structure comprised in the project—
 - (i) includes among the design considerations adequate regard to the needs specified in sub-paragraphs (i) to (iii) of regulation 13(2)(a), and
 - (ii) includes adequate information as specified in regulation 13(2)(b);
- (b) take such steps as it is reasonable for a person in his position to take to ensure co-operation between designers so far as is necessary to enable each designer to comply with the requirements placed on him by regulation 13;
- (c) be in a position to give adequate advice to—
 - (i) any client and any contractor with a view to enabling each of them to comply with regulations 8(2) and 9(2), and
 - (ii) any client with a view to enabling him to comply with regulations 8(3), 9(3) and 10;

- (d) ensure that a health and safety file is prepared in respect of each structure comprised in the project containing—
 - (i) information included with the design by virtue of regulation 13(2)(b), and
 - (ii) any other information relating to the project which it is reasonably foreseeable will be necessary to ensure the health and safety of any person at work who is carrying out or will carry out construction work or cleaning work in or on the structure or of any person who may be affected by the work of such a person at work;
- (e) review, amend or add to the health and safety file prepared by virtue of paragraph (d) as necessary to ensure that it contains the information mentioned in this regulation when it is delivered to the client in accordance with paragraph (f); and
- (f) ensure that, on the completion of construction work on each structure comprised in the project, the health and safety file in respect of that structure is delivered to the client.

Requirements relating to the health and safety plan.

15.(1) The planning supervisor appointed for any project shall ensure that a health and safety plan in respect of the project has been prepared no later than the time specified in subregulation (2) and contains the information specified in subregulation (3).

(2) The time when the health and safety plan is required by subregulation (1) to be prepared is such time as will enable the health and safety plan to be provided to any contractor before arrangements are made for the contractor to carry out or manage construction work.

(3) The information required by subregulation (1) to be contained in the health and safety plan is—

- (a) a general description of the construction work comprised in the project;
- (b) details of the time within which it is intended that the project, and any intermediate stages, will be completed;
- (c) details of risks to the health or safety of any person carrying out the construction work so far as such risks are known to the planning supervisor or are reasonably foreseeable;

- (d) any other information which the planning supervisor knows or could ascertain by making reasonable enquiries and which it would be necessary for any contractor to have if he wished to show—
 - (i) that he has the competence about which any person is required to be reasonably satisfied by regulation 8, or
 - (ii) that he has allocated or, as appropriate, will allocate adequate resources about which any person is required to be reasonably satisfied by regulation 9;
 - (e) such information as the planning supervisor knows or could ascertain by making reasonable enquiries and which it is reasonable for the planning supervisor to expect the principal contractor to need in order for him to comply with the requirement imposed on him by subregulation (4); and
 - (f) such information as the planning supervisor knows or could ascertain by making reasonable enquiries and which it would be reasonable for any contractor to know in order to understand how he can comply with any requirements placed upon him in respect of welfare by or under the relevant statutory provisions.
- (4) The principal contractor shall take such measures as it is reasonable for a person in his position to take to ensure that the health and safety plan contains until the end of the construction phase the following features—
- (a) arrangements for the project (including, where necessary, for management of construction work and monitoring of compliance with the relevant statutory provisions) which will ensure, so far as is reasonably practicable, the health and safety of all persons at work carrying out the construction work and all persons who may be affected by the work of such persons at work, taking account of—
 - (i) risks involved in the construction work; and
 - (ii) any activity specified in subregulation (5); and
 - (b) sufficient information about arrangements for the welfare of persons at work by virtue of the project to enable any contractor to understand how he can comply with any requirements placed upon him in respect of welfare by or under the relevant statutory provisions.
- (5) An activity is an activity referred to in subregulation (4)(a)(ii) if—

- (a) it is an activity of persons at work;
- (b) it is carried out in or on the premises where construction work is or will be carried out; and
- (c) either—
 - (i) the activity may affect the health or safety of persons at work carrying out the construction work or persons who may be affected by the work of such persons at work, or
 - (ii) the health or safety of the persons at work carrying out the activity may be affected by the work of persons at work carrying out the construction work.

Requirements on and powers of principal contractor.

16.(1) The principal contractor appointed for any project shall—

- (a) take reasonable steps to ensure co-operation between all contractors so far as is necessary to enable each of those contractors to comply with the requirements and prohibitions imposed on him by or under the relevant statutory provisions relating to the construction work;
- (b) ensure, so far as is reasonably practicable, that every contractor, and every employee at work in connection with the project, complies with any rules contained in the health and safety plan;
- (c) take reasonable steps to ensure that only authorised persons are allowed into any premises or part of premises where construction work is being carried out;
- (d) ensure that the particulars required to be in any notice given under regulation 7 are displayed in a readable condition in a position where they can be read by any person at work on construction work in connection with the project; and
- (e) promptly provide the planning supervisor with any information which—
 - (i) is in the possession of the principal contractor or which he could ascertain by making reasonable enquiries of a contractor,
 - (ii) it is reasonable to believe the planning supervisor would include in the health and safety file in order to comply with the requirements imposed on him in regulation 14, and

(iii) is not in the possession of the planning supervisor.

(2) The principal contractor may—

- (a) give reasonable directions to any contractor so far as is necessary to enable the principal contractor to comply with his duties under these Regulations; and
- (b) include in the health and safety plan rules for the management of the construction work which are reasonably required for the purposes of health and safety.

(3) Any rules contained in the health and safety plan shall be in writing and be brought to the attention of persons who may be affected by them.

Information and training.

17.(1) The principal contractor appointed for any project shall ensure, so far as is reasonably practicable, that every contractor is provided with comprehensible information on the risks to the health or safety of that contractor or of any employees or other persons under the control of that contractor arising out of or in connection with the construction work.

(2) The principal contractor shall ensure, so far as is reasonably practicable, that every contractor who is an employer provides any of his employees at work carrying out the construction work with—

- (a) any information which the employer is required to provide to those employees in respect of that work; and
- (b) any health and safety training which the employer is required to provide to those employees in respect of that work.

Advice from, and views of, persons at work.

18. The principal contractor shall—

- (a) ensure that employees and self-employed persons at work on the construction work are able to discuss, and offer advice to him on, matters connected with the project which it can reasonably be foreseen will affect their health or safety; and
- (b) ensure that there are arrangements for the co-ordination of the views of employees at work on construction work, or of their representatives, where necessary for

reasons of health and safety having regard to the nature of the construction work and the size of the premises where the construction work is carried out.

Requirements and prohibitions on contractors.

19.(1) Every contractor shall, in relation to the project—

- (a) co-operate with the principal contractor so far as is necessary to enable each of them to comply with his duties under the relevant statutory provisions;
- (b) so far as is reasonably practicable, promptly provide the principal contractor with any information which might affect the health or safety of any person at work carrying out the construction work or of any person who may be affected by the work of such a person at work or which might justify a review of the health and safety plan;
- (c) comply with any directions of the principal contractor given to him under regulation 16(2)(a);
- (d) comply with any rules applicable to him in the health and safety plan;
- (e) promptly provide the principal contractor with the information in relation to any death, injury, condition or dangerous occurrence which the contractor is required to notify or report under sections 71 to 75 of the Factories Act;
- (f) promptly provide the principal contractor with any information which—
 - (i) is in the possession of the contractor or which he could ascertain by making reasonable enquiries of persons under his control,
 - (ii) it is reasonable to believe the principal contractor would provide to the planning supervisor in order to comply with the requirements imposed on the principal contractor in respect thereof by regulation 16(1)(e), and
 - (iii) which is not in the possession of the principal contractor.

(2) No employer may cause or permit any employee of his to work on construction work unless the employer has been provided with the information mentioned in subregulation (4).

(3) No self-employed person may work on construction work unless he has been provided with the information mentioned in subregulation (4).

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- (4) The information referred to in subregulations (2) and (3) is–
- (a) the name of the planning supervisor for the project;
 - (b) the name of the principal contractor for the project; and
 - (c) the contents of the health and safety plan or such part of it as is relevant to the construction work which any such employee or, as the case may be, which the self-employed person, is to carry out.
- (5) It is a defence in any proceedings for contravention of subregulation (2) or (3) for the employer or self-employed person to show that he made all reasonable enquiries and reasonably believed–
- (a) that he had been provided with the information mentioned in subregulation (4); or
 - (b) that, by virtue of any provision in regulation 3, this regulation did not apply to the construction work.

Fees, charges, immunity and confidentiality.

20.(1) The competent authority may make and from time to time revise a scheme prescribing fees payable in respect of any of its functions under these Regulations.

- (2) A scheme under this section may, in particular–
- (a) provide for different fees or charges to be payable in different cases or circumstances;
 - (b) provide for the times at which and the manner in which payments are to be made; and
 - (c) make such incidental, supplementary and transitional provisions as appear to the competent authority to be appropriate.
- (3) The competent authority shall so frame a scheme under this regulation as to secure, so far as practicable, that the amounts payable under it will be sufficient, taking one financial year with another, to cover the expenditure of the competent authority in discharging its functions under these Regulations in relation to consents.
- (4) Neither the competent authority nor any person appointed by the competent authority, not any of its members, officers, or servants will be liable in damages for anything done or

omitted in the discharge or purported discharge of any powers or functions conferred on the competent authority by these Regulations unless the act or omission is shown to have been in bad faith.

- (5) Save as may be provided by any other Act—
- (a) any information from which an individual or body can be identified which is acquired by the competent authority in the course of carrying out its functions shall be regarded as confidential by the competent authority and by its members, officers and servants;
 - (b) no such information as is referred to in subregulation (a) may be disclosed, without the consent of every individual who, and every body which, can be identified from that information, except if its disclosure appears to the competent authority to be necessary—
 - (i) to enable the competent authority to carry out any of its statutory functions;
 - (ii) in the interests of the prevention or detection of crime;
 - (iii) in connection with the discharge of any international obligation to which Gibraltar is subject;
 - (iv) to assist, in the interest of the public, any authority which appears to the competent authority to exercise in a place outside Gibraltar functions corresponding to those of the competent authority; or
 - (v) to comply with the directions of the Supreme Court.

Exclusion of civil liability.

21. Breach of a duty imposed by these Regulations, other than those imposed by regulation 10 and regulation 16(1)(c), does not confer a right of action in any civil proceedings.

Enforcement.

22. The enforcing authority for these Regulations is the Factories Inspectors.

Transitional provisions.

23. Schedule 3 has effect with respect to projects which have started, but the construction phase of which has not ended, on 1st October 1998.

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SCHEDULE 1

Regulation 7

PARTICULARS TO BE NOTIFIED TO THE COMPETENT AUTHORITY

1. Date of forwarding.
2. Exact address of the construction site.
3. Name and address of the client or clients (see note).
4. Type of project.
5. Name and address of the planning supervisor.
6. A declaration signed by or on behalf of the planning supervisor that he has been appointed as such.
7. Name and address of the principal contractor.
8. A declaration signed by or on behalf of the principal contractor that he has been appointed as such.
9. Date planned for start of the construction phase.
10. Planned duration of the construction phase.
11. Estimated maximum number of people at work on the construction site.
12. Planned number of contractors on the construction site.
13. Name and address of any contractor or contractors already chosen.

Note: Where a declaration has been made in accordance with regulation 4(4), paragraph 3 above refers to the client or clients on the basis that that declaration has not yet taken effect.

SCHEDULE 2

Regulation 9(4)

MINIMUM HEALTH & SAFETY REQUIREMENTS
FOR CONSTRUCTION SITES

PART A.

GENERAL MINIMUM REQUIREMENTS FOR ON-SITE WORKSTATIONS.

Stability and solidity.

1.(1) Materials, equipment and, more generally, any component which, when moving in any way, may affect the safety and health of workers must be stabilised in an appropriate and safe manner.

(2) Access to any surface involving insufficiently resistant materials is not authorised unless appropriate equipment or means are provided to enable the works to be carried out safely.

Energy distribution installation.

2.(1) The installations must be designed, constructed and used so as not to present a fire or explosion hazard; persons must be adequately protected against the risk of electrocution caused by direct or indirect contact.

(2) The design, construction and choice of equipment and protection devices must take account of the type and power of the energy distributed, external conditions and the competence of persons with access to parts of the installation.

Emergency routes and exits.

3.(1) Emergency routes and exits must remain clear and lead as directly as possible to a safe area.

(2) In the event of danger, it must be possible for workers to evacuate all workstations quickly and as safely as possible.

(3) The number, distribution and dimensions of emergency routes and exits depend on the use, equipment and dimensions of the site and of the rooms and the maximum number of persons that may be present.

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(4) Specific emergency routes and exits must be indicated by signs in accordance with the Health and Safety (Safety Signs and Signals) Regulations 1996. Such signs must be sufficiently resistant and be placed at appropriate points.

(5) Emergency routes and exits, and the traffic routes and doors giving access to them, must be free from obstruction so that they can be used at any time without hindrance.

(6) Emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in case the lighting fails.

Fire detection and fire fighting.

4.(1) Depending on the characteristics of the site, the dimensions and use of the rooms, the on-site equipment, the physical and chemical properties of the substances present and the maximum potential number of people present, an adequate number of appropriate fire-fighting devices and, where required, fire detectors and alarm systems must be provided.

(2) These fire-fighting devices, fire detectors and alarm systems must be regularly checked and maintained. Appropriate tests and drills must take place at regular intervals.

(3) Non-automatic fire-fighting equipment must be easily accessible and simple to use. The equipment must be indicated by signs in accordance with the Health and Safety (Safety Signs and Signals) Regulations 1996. Such signs must be sufficiently resistant to fire and placed at appropriate points.

Ventilation.

5.(1) Steps must be taken to ensure that there is sufficient fresh air, having regard to the working methods used and the physical demands placed on the workers.

(2) If a forced ventilation system is used, it must be maintained in working order and must not expose workers to draughts which are harmful to health.

(3) Any breakdown must be indicated by a control system where this is necessary for workers' health.

Exposure to particular risks.

6.(1) Workers must not be exposed to harmful levels of noise or to harmful external influences (e.g. gases, vapours, dust).

(2) If workers have to enter an area where the atmosphere is liable to contain a toxic or harmful substance or to have an insufficient oxygen level or to be inflammable, the confined atmosphere must be monitored and appropriate steps taken to prevent any hazards.

(3) A worker may not in any circumstances be exposed to a high-risk confined atmosphere. He must at least be watched at all times from outside and all appropriate precautions must be taken to ensure that he can be assisted effectively and immediately.

Temperature.

7. During working hours, the temperature must be appropriate for human beings, having regard to the working methods used and the physical demands placed on the workers.

Natural and artificial lighting of workstations, rooms and traffic routes on the site.

8.(1) Workstations, rooms and traffic routes must as far as possible have sufficient natural lighting and be provided with appropriate and sufficient artificial lighting at night and when natural daylight is inadequate; where necessary, portable light sources that are protected against impact must be used. The colour of artificial light used must not alter or affect the perception of signals or signposts.

(2) Lighting installations for rooms, workstations and traffic routes must be placed in such a way that there is no risk of accident to workers as a result of the type of lighting fitted.

(3) Rooms, workstations and traffic routes where workers are especially exposed to risks in the event of failure of artificial lighting must be provided with emergency lighting of adequate intensity.

Doors and gates.

9.(1) Sliding doors must be fitted with a safety device to prevent them from being derailed and falling over.

(2) Doors and gates opening upwards must be fitted with a mechanism to secure them against falling back.

(3) Doors and gates along escape routes must be appropriately marked.

(4) In the immediate vicinity of gates intended primarily for vehicle traffic, there must be doors for pedestrian traffic unless it is safe for pedestrians to cross; such doors must be clearly marked and kept free at all times.

(5) Mechanical doors and gates must operate without any risk of accident to workers. They must be fitted with emergency stop devices which are easily identifiable and accessible and, unless they open automatically in the event of a power-cut, it must be possible for them to be opened manually.

Traffic routes-danger areas.

10.(1) Traffic routes, including stairs, fixed ladders and loading bays and ramps, must be calculated, located, laid out and made negotiable to ensure easy, safe and appropriate access in such a way as not to endanger workers employed in the vicinity of these traffic routes.

(2) Routes used for pedestrian traffic and/or goods traffic including those used for loading and unloading must be dimensioned in accordance with the number of potential users and the type of activity concerned. If means of transport are used on traffic routes, a sufficient safety clearance or adequate protective devices must be provided for other site users. Routes must be clearly marked, regularly checked and properly maintained.

(3) Sufficient clearance must be allowed between vehicle traffic routes and doors, gates, passages for pedestrians, corridors and staircases.

(4) If the site includes limited-access areas, these must be equipped with devices to prevent unauthorised workers from entering. Appropriate measures must be taken to protect workers who are authorised to enter the danger areas. Danger areas must be clearly signposted.

Loading bays and ramps.

11.(1) Loading bays and ramps must be suitable for the dimensions of the loads to be transported.

(2) Loading bays must have at least one exit point.

(3) Loading ramps must be sufficiently safe to prevent workers from falling off.

Freedom of movement at the workstation.

12. The floor area at the workstation must be such as to allow workers sufficient freedom of movement to perform their work, taking account of any necessary equipment or appliances present.

First aid.

13.(1) The employer must ensure that first aid can be provided, and that the staff trained to provide it can be called upon, at any time. Measures must be taken to ensure that workers who have had an accident or have suddenly been taken ill can be removed for medical treatment.

(2) One or more first-aid rooms must be provided where the scale of the works or the types of activity being carried out so require.

(3) First-aid rooms must be fitted with essential first-aid installations and equipment and be easily accessible to stretchers. They must be signposted in accordance with the Health and Safety (Safety Signs and Signals) Regulations, 1996.

(4) In addition, first-aid equipment must be available at all places where working conditions so require. This equipment must be suitably marked and easily accessible. The address and telephone number of the local emergency service must be clearly signposted.

Sanitary equipment, changing rooms and lockers.

14.(1) Appropriate changing rooms must be provided for workers if they have to wear special work clothes and if, for reasons of health or propriety, they cannot be expected to change in another area. Changing rooms must be easily accessible, be of sufficient capacity and be provided with seating.

(2) Changing rooms must be sufficiently large and have facilities to enable each worker, where necessary, to dry his working clothes as well as his own clothing and personal effects and to lock them away. If circumstances so require (e.g. dangerous substances, humidity, dirt), facilities must be provided to enable working clothes to be kept in a place separate from workers' own clothes and personal effects.

(3) Provision must be made for separate changing rooms or separate use of changing rooms for men and women.

(4) If changing rooms are not required as referred to in sub-paragraph (1), each worker must be provided with a place in which he can lock away his own clothes and personal effects.

Showers and washbasins.

15.(1) Suitable showers in sufficient numbers must be provided for workers if required by the nature of the work or for health reasons. Provision must be made for separate shower rooms or separate use of shower rooms for men and women.

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(2) The shower rooms must be sufficiently large to permit each worker to wash without hindrance in conditions of an appropriate standard of hygiene. The showers must be equipped with hot and cold running water.

(3) Where showers are not required under sub-paragraph (1), a sufficient number of suitable washbasins with running hot and cold water must be provided in the vicinity of the workstations and the changing rooms. Provision must be made for separate washbasins, or separate use of washbasins for men and women when so required for reasons of propriety.

(4) Where the rooms housing the showers or washbasins are separate from the changing rooms, there must be easy communication between the two.

Lavatories and washbasins.

16. Special facilities with an adequate number of lavatories and washbasins must be provided for workers in the vicinity of workstations, rest rooms, changing rooms and rooms housing showers or washbasins. Provision must be made for separate lavatories or separate use of lavatories for men and women.

Rest rooms and/or accommodation areas.

17.(1) Where the safety or health of workers, in particular because of the type of activity carried out or the presence of more than a certain number of employees as well as the remote nature of the site, so require, workers must be provided with easily accessible rest rooms and/or accommodation areas.

(2) Rest rooms and/or accommodation areas must be large enough and equipped with an adequate number of tables and seats with backs for the number of workers concerned.

(3) If there are no facilities of this kind, other facilities must be provided in which workers can stay during interruptions in work.

(4) Fixed accommodation areas, unless used only in exceptional cases, must have sufficient sanitary equipment, a rest room and a leisure room. They must be equipped with beds, cupboards, tables and seats with backs taking account of the number of workers, and be allocated taking account, where appropriate, of the presence of workers of both sexes.

(5) Appropriate measures should be taken for the protection of non-smokers against discomfort caused by tobacco smoke in rest rooms and/or accommodation areas.

Pregnant women and nursing mothers.

18. Pregnant women and nursing mothers must be able to lie down to rest in appropriate conditions.

Disabled workers.

19. Workplaces must be organised to take account of Disabled workers, if necessary. The provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories and workstations used or occupied directly by disabled persons.

Miscellaneous provisions.

20.(1) The surroundings and the perimeter of the site must be signposted and laid out so as to be clearly visible and identifiable.

(2) Workers must be provided at the site with a sufficient quantity of drinking water and possibly another suitable non-alcoholic beverage both in occupied rooms and in the vicinity of workstations.

(3) Workers must—

(a) be provided with facilities enabling them to take their meals in satisfactory conditions; and

(b) where appropriate, be provided with facilities enabling them to prepare their meals in satisfactory conditions.

PART B.

SPECIFIC MINIMUM REQUIREMENTS FOR ON-SITE WORKSTATIONS.

Section I – On-site indoor workstations.

Stability and solidity.

1. Premises must have a structure and stability appropriate to the nature of their use.

Emergency doors.

2.(1) Emergency doors must open outwards.

(2) Emergency doors must not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency.

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(3) Sliding or revolving doors are not permitted if intended as emergency exits.

Ventilation.

3. If air-conditioning or mechanical ventilation installations are used, they must operate in such way that workers are not exposed to draughts which cause discomfort. Any deposit or dirt likely to create an immediate danger to the health of workers by polluting the atmosphere must be removed without delay.

Temperature.

4.(1) The temperature in rest areas, rooms for duty staff, sanitary facilities, canteens and first-aid rooms must be appropriate to the particular purpose of such areas.

(2) Windows, skylights and glass partitions should allow excessive effects of sunlight to be avoided, having regard to the nature of the work and the use of the room.

Natural and artificial lighting.

5. Workplaces must as far as possible have sufficient natural light and be equipped with the means of providing artificial lighting which is adequate for the purposes of protecting workers' safety and health.

Floors, walls, ceilings and roofs of rooms.

6.(1) The floors of workplaces must have no dangerous bumps, holes or slopes and must be fixed, stable and not slippery.

(2) The surfaces of floors, walls and ceilings in rooms must be such that they can be cleaned or refurbished to an appropriate standard of hygiene.

(3) Transparent or translucent walls, in particular all-glass partitions, in rooms or in the vicinity of workplaces and traffic routes must be clearly indicated and made of safety material or be shielded from such places or traffic routes to prevent workers from coming into contact with walls or being injured should the walls shatter.

Windows and skylights.

7.(1) It must be possible for workers to open, close, adjust or secure windows, skylights and ventilators in a safe manner. When open, they must not be positioned so as to constitute a hazard to workers.

(2) Windows and skylights must be designed in conjunction with equipment or otherwise fitted with devices allowing them to be cleaned without risk to the workers carrying out this work or to workers present.

Doors and Gates.

8.(1) The position, number and dimensions of doors and gates, and the materials used in their construction, are determined by the nature and use of the rooms or areas.

(2) Transparent doors must be appropriately marked at a conspicuous level.

(3) Swing doors and gates must be transparent or have see-through panels.

(4) If transparent or translucent surfaces in doors and gates are not made of safety material and if there is a danger that workers may be injured if a door or gate should shatter, the surfaces must be protected against breakage.

Traffic routes.

9. Where the use and equipment of rooms so requires for the protection of workers, traffic routes must be clearly identified.

Specific measures for escalators and travelators.

10.(1) Escalators and travelators must function safely.

(2) They must be equipped with any necessary safety devices.

(3) They must be fitted with easily identifiable and accessible emergency shut-down devices.

Room dimensions and air space in room.

11. Workrooms must have sufficient surface area and height to allow workers to perform their work without risk to their safety, health or well-being.

Section II – On-site workstations**Stability and solidity.**

12.(1) High-level or low-level movable or fixed workstations must be solid and stable, taking account of–

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- (a) the number of workers occupying them;
- (b) the maximum loads they may have to bear and the weight distribution; and
- (c) the outside influences to which they may be subject.

(2) If the support and the other components of these workstations are not intrinsically stable, their stability will have to be ensured by appropriate and safe methods of fixing to avoid any untimely or spontaneous movement of the whole or of parts of the workstations.

Checking.

13. Stability and solidity must be checked appropriately and especially after any change in the height or depth of the workstation.

Energy distribution installations.

14.(1) On-site energy distribution installations, especially those subject to outside influences, must be regularly checked and maintained.

(2) Installations existing before the site began must be identified, checked and clearly signposted.

(3) Whenever possible, where overhead electric power lines exist, either they must be redirected away from the area of the site or else the current must be cut off. If this is not possible, there must be barriers or notices to ensure that vehicles and installations are kept away. Suitable warnings and suspended protections must be provided where vehicles have to pass beneath the lines.

Atmospheric influences.

15. Workers must be protected against atmospheric influences which could affect their health and safety.

Falling objects.

16. Wherever technically feasible, workers must be protected by collective methods against falling objects. Materials and equipment must be laid out or stacked in such a way as to prevent their collapsing or overturning. Where necessary, there must be covered passageways on the site or access to danger areas must be made impossible.

Falls from a height.

17.(1) Falls from a height must be physically prevented in particular by means of solid cradles which are sufficiently high and have at least an end-board, a main handrail and an intermediate handrail or an equivalent alternative.

(2) In principle, work at a height must be carried out only with appropriate equipment or using collective protection devices such as cradles, platforms or safety nets.

(3) If the use of such equipment is not possible because of the nature of the work, suitable means of access must be provided and safety harnesses or other anchoring safety methods must be used.

Scaffolding and ladders.

18.(1) All scaffolding must be properly designed, constructed and maintained to ensure that it does not collapse or move accidentally.

(2) Work platforms, gangways and scaffolding stairways must be constructed, dimensioned, protected and used in such a way as to prevent people from falling or being exposed to falling objects.

(3) Scaffolding must be inspected by a competent person—

(a) before being put into service;

(b) subsequently, every 7 days; and

(c) after any modification, period without use, exposure to bad weather or seismic tremors, or any other circumstance which may have affected its strength or stability.

(4) Ladders must be sufficiently strong and correctly maintained. They must be correctly used, in appropriate places and in accordance with their intended purpose.

(5) Mobile scaffolding must be secured against spontaneous movements.

19. *Revoked*

Evacuating and materials-handling vehicles and machinery.

20.(1) All evacuating and materials-handling vehicles and machinery must be—

- (a) properly designed and constructed taking account, as far as possible, of the principles of ergonomics;
 - (b) kept in good working order; and
 - (c) used correctly.
- (2) Drivers and operators of excavating and materials-handling vehicles and machinery must be specially trained.
- (3) Preventive measures must be taken to ensure that excavating and materials-handling vehicles and machinery do not fall into the excavations or into water.
- (4) Where appropriate, excavating machinery and materials-handling machinery must be fitted with structures to protect the driver against being crushed if the machine overturns, and against falling objects.

Installations, machinery and equipment.

21.(1) Installations, machinery and equipment, including hand tools whether power-driven or not, must be—

- (a) properly designed and constructed taking account, as far as possible, of the principle of ergonomics;
 - (b) kept in good working order;
 - (c) used solely for the work for which they were designed; and
 - (d) operated by workers who have received appropriate training.
- (2) Installations and equipment under pressure must be checked and subjected to regular tests and inspections in accordance with current legislation.

Excavations, wells, underground works, tunnels and earthwork.

22.(1) Suitable precautions must be taken in an excavation, well, underground working or tunnel—

- (a) using an appropriate support or embankment;

- (b) to prevent hazards entailed in the fall of a person, materials or objects, or flooding;
 - (c) to provide sufficient ventilation at all workstations so as to ensure a breathable atmosphere which is not dangerous or harmful to health; and
 - (d) to enable workers to reach safety in the event of fire or inrush of water or materials.
- (2) Before excavation starts, measures must be taken to identify and reduce to a minimum any hazard due to underground cables and other distribution systems.
- (3) Safe routes into and out of the excavation must be provided.
- (4) Piles of earth, materials and moving vehicles must be kept away from the excavation; appropriate barriers must be built if necessary.

Demolition work.

23. Where the demolition of a building or construction may present a danger—

- (a) appropriate precautions, methods and procedures must be adopted; and
- (b) the work must be planned and undertaken only under the supervision of a competent person.

Metal or concrete frameworks, shutterings and heavy prefabricated components.

24.(1) Metal or concrete frameworks and their components, shutterings, prefabricated components or temporary supports, and buttresses must be erected and dismantled only under the supervision of a competent person.

(2) Adequate precautions must be taken to protect workers against risks arising from the temporary fragility or instability of a structure.

(3) Shutterings, temporary supports and buttresses must be devised and designed, installed and maintained so as to safely withstand any strain and stresses which may be placed on them.

Cofferdams and caissons.

25.(1) All cofferdams and caissons must be—

- (a) well constructed, of appropriate, solid materials of adequate strength; and

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- (b) appropriately equipped so that workers can gain shelter in the event of an irruption of water.
- (2) The construction, installation, transformation or dismantling of a cofferdam or caisson must take place only under the supervision of a competent person.
- (3) All cofferdams and caissons must be inspected by a competent person at regular intervals.

Work on roofs.

- 26.(1) Where necessary to avert a risk or where the height or the slope exceed values set by the Member States, collective preventive measures must be taken to prevent workers, and tools or other objects or materials, from falling.
- (2) Where workers have to work on or near a roof or any other surface made of fragile materials through which it is possible to fall, preventive measures must be taken to ensure that they do not inadvertently walk on the surface made of fragile materials, or fall to the ground.

Final provisions.

27. If special situations so dictate, the classification of the minimum requirements set out in this Part of this Schedule are not to be regarded as binding.
28. The obligations laid down in this Schedule apply wherever required by the features of the construction site, the activity, the circumstances or a hazard. For the purposes of this Schedule “rooms” covers, inter alia, huttet accommodation.

SCHEDULE 3.

Regulation 23

TRANSITIONAL PROVISIONS.

1. Until 30 June 1999, regulation 6 does not apply in respect of a project the construction phase of which started before 1 October 1998.
2. Where, on 1 October 1988, the time specified in regulation 6(3) for the appointment of the planning supervisor has passed, the time for appointing the planning supervisor by virtue of regulation 6(1)(a) is as soon as is practicable after 1 October 1998.
3. Where, on 1 October 1998, the time specified in regulation 6(4) for the appointment of the principal contractor has passed, the time for appointing the principal contractor by virtue of regulation 6(1)(b) is as soon as is practicable after 1 October 1998.
4. Regulation 10 does not apply to any project the construction phase of which started before 31 January 1999.
5. Regulation 11 does not apply to any project the construction phase of which started before 1 October 1998.
6. Until 31 January 1999, regulation 13 and regulation 14(a) do not apply in respect of any design the preparation of which started before 1 October 1998.