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Insurance Services

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# The Construction (Design and Management) Regulations 2015 - Risk & Disclosure

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# The Construction (Design and Management) Regulations 2015 - Risk & Disclosure

**Following the recent changes to the CDM Regulations, with effect from 6th April 2015, CIAT members may find that their role on a project will change, or that they are appointed in a different capacity.**

One significant change is that more small to medium projects will require notification to HSE as the CDM duties now apply to domestic contracts, which will result in this role being performed by more CIAT members

Members will become duty holders under the new Regulations, when appointed as Designers or Principal Designers, or both.

A Principal Designer (where there is more than one contractor) must be appointed on all construction projects. Therefore members may now find that they are required to provide services which have historically been provided by others, most recently the CDM Co-ordinator.

The Client now has a duty to ensure that those appointed can demonstrate 'Explicit Competence'.

We must therefore stress the importance of ensuring that members are fully aware of the changes in the Regulations and have a thorough understanding of their obligations as duty-holder in the role they are performing, to ensure competence in what they do. For some, further training may be required. As always, the level of competence you should expect to be judged on would be the reasonable skill and care expected of a qualified Architectural Technologist.

The role and risks involved in acting as Principal Designer are not something that will be new to Professional Indemnity insurers, as this replaces the previous CDM Co-ordinator and Planning Supervisor

roles, which insurers have happily covered in the past. The changes in the Regulations will not pose a major change in risk to insurers as the role of the Principal Designer will still be to ensure that they comply with the Health & Safety legislation and ensure that their clients are fully aware of their statutory duties. Insurers will, however, now insure a greater number of Architectural Technologists who provide this service.

It is important that members bear in mind that there is a legal duty to disclose to their Professional Indemnity insurers all material information which may affect their judgement in determining whether to provide the member with insurance and, if so, on what terms. In the case of renewal of existing insurance arrangements, this includes any material changes to information already disclosed to insurers; therefore, you should disclose any changes in services to your insurers to ensure you are protected from claims arising from performing the role of Principal Designer.

Some insurers may require evidence of qualifications or experience of their insureds to perform a role. **The CIAT members' own Professional Indemnity scheme already provides members with automatic cover for their liabilities assumed in the performance of this role and therefore no further disclosure to the scheme insurers is needed. The description of 'Professional Business' under the policy includes the following:**

*"PROFESSIONAL BUSINESS"* means those services listed in the Schedule and any other activities which are undertaken by members of the Chartered Institute of Architectural Technologists or have otherwise been declared to the Company and which are performed by or on behalf of the Practice.

Therefore, services which a CIAT member is deemed to be qualified to provide are automatically covered. This may not be the same for all insurers; therefore, care must be taken to ensure that the

business description of your PI policy is broad enough to cover all of the services undertaken by your practice.



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