

Constructions and Demolition Works – Are you Compliant?

Following the implementation of The Site Waste Management Plans Regulations 2008 (“the Regulations”) on 6 April 2008, those responsible for the implementation of new construction projects worth more than £300,000 (excluding VAT) (which will include any building or 'construction work', building maintenance, alteration, decoration and demolition) must have in place a site waste management plan (SWMP).

What is the Purpose of the Regulations?

The Regulations have been implemented to assist the prevention of the illegal disposal of waste by ensuring that those responsible for construction projects can demonstrate that they know of the intended destination of any waste removed from a site, that their waste is being managed by legitimate waste carriers and, as far as possible, that their waste is managed responsibly and in line with waste management controls.

Who is responsible for the SWMP?

The “client” within the meaning of the Regulations has an obligation to produce the initial SWMP before the construction work begins. If management of the project is delegated to a principal contractor, the principal contractor will then have the responsibility of keeping the SWMP updated as the project progresses and must allow others access to the SWMP.

What should the SWMP contain?

Before construction work begins, the SWMP must contain the identity of the client, principal contractor and author of the SWMP. It must describe the site, provide estimates of the types and quantities of waste that will be produced and provide confirmation of the actual waste generated and how it will be managed. For projects estimated to exceed £500,000 excluding VAT, there are additional requirements to comply with.

What must be done on the completion of the project?

On completion of the project, the SWMP must be reviewed and any discrepancies between the content of the SWMP and what happened in reality must be highlighted with reasons. It will also be necessary to record an estimate of cost savings that were achieved by implementing the SWMP. There is an obligation to retain the SWMP on site for two years after the completion of a project.

What are the penalties for non-compliance?

A breach of the Regulations can be punishable by an unlimited fine. There is also a £300 fixed penalty for failure to produce a SWMP on demand.

In view of the extensive obligations imposed by the Regulations and the significant implications and ramifications for non-compliance, it is imperative that the supporting legal documentation, whether this is the Construction Contract or a Licence to Alter, is drafted so as to ensure that the client is protected and adequately advised of its duties and requirements.

For further advice on this, or any other commercial property or construction issue, please contact a member of our Commercial Property Team by email on info@franklins-sols.co.uk, or telephone us on 01908 660966 or 01604 828282 .