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Third Delegated Legislation Committee

Thursday 10 May 2007

[Mr. David Wilshire *in the Chair*]

Construction (Design and Management) Regulations 2007

8.55 am

The Chairman: May I remind the Committee that this is a very narrow matter, rather than an opportunity for a general discussion on health and safety matters?

Andrew Selous (South-West Bedfordshire) (Con): I beg to move,

That the Committee has considered the Construction (Design and Management) Regulations 2007 (S.I. 2007, No. 320).

It is a pleasure to serve under your chairmanship again, Mr. Wilshire. It does not seem long since we were in this Room or one very like it under your chairmanship. I know that you will be fair and good humoured with us, as you always are.

It is absolutely not my intention to vote against the regulations. The Committee has been convened under the negative resolution procedure. There is a set form of words for the early-day-motion that has to be tabled to achieve that. I personally think it unfortunate that it has to include the phrase “annul” the regulations. Were it up to me, I certainly would have chosen to use a different word. My party and I are wholly committed to the highest possible standards of health and safety. Had we not tabled the early-day motion, there would have been no opportunity to debate these important regulations. I will explain in the course of my remarks that there are additional measures that could be taken to make health and safety even better in the construction industry—the subject under discussion this morning.

The House spent more than 700 hours discussing the fox hunting Bill. It is a matter of great regret that health and safety legislation receives so little scrutiny in the House. The hour and a half that we have this morning is a welcome and important opportunity to debate and to scrutinise these matters, to probe Ministers on the issue, perhaps, in certain circumstances, to ask them to go further and faster, to question why one approach has been taken when perhaps another could have been, and to seek assurances about the implementation of the regulations. I hope that those remarks are helpful in setting the scene, explaining why we are here and outlining my intentions for the debate.

Mr. Nick Raynsford (Greenwich and Woolwich) (Lab): May I, for the sake of propriety, draw attention to my declared interest in the Register of Members’ Interests as chairman of the Construction Industry Council?

Which industry bodies did the hon. Gentleman consult before he laid down his prayer seeking to annul—it was to annul—the regulations? Did he consult the Construction Confederation and the Construction Industry Council? Did he consult those people in the industry who know just how important instilling a safety culture is to achieve a reduction in fatalities?

Andrew Selous: Yes, indeed. I met the Construction Industry Council. They came to see me here. I had a meeting with them in the very Room where we are today. I met representatives from the Institution of Occupational Safety and Health, who I am meeting later today. Indeed, I have consulted widely. If the right hon. Gentleman will allow me to set out my remarks, I will go through that, but in answer to his question—

Mr. Raynsford: Will the hon. Gentleman give way?

Andrew Selous: I allowed the right hon. Gentleman to intervene. In answer to his question, I consulted the construction industry. I have been to meet the Health and Safety Executive in Rose court. I have met representatives from the Institution of Occupational Safety and Health, as well as others.

Mr. Raynsford *rose*—

Andrew Selous: I will make a little progress and the right hon. Gentleman—

Mr. Raynsford: On a point of accuracy.

Andrew Selous: Very well.

Mr. Raynsford: I am grateful to the hon. Gentleman. He says that he has consulted the Construction Industry Council. I chair the Construction Industry Council. I spoke this morning to the chief executive of that council, who assures me that he has had no meeting, no approach and no consultation from the hon. Gentleman. Will he now please reconsider the answer that he gave the Committee, because he may be misleading the Committee?

The Chairman: Order. Will the right hon. Gentleman withdraw the word “misleading”?

Mr. Raynsford: I did say that the hon. Gentleman may be misleading the Committee and I asked him to reconsider.

The Chairman: Would you add “inadvertently”?

Mr. Raynsford: I would happily add “inadvertently”.

Andrew Selous: I have met representatives of the construction industry. There may be more than one body, but I have met representatives of the construction industry who are thoroughly committed to these regulations, so I have shown due diligence. I am absolutely satisfied that I have met representatives of all sectors that have an interest in the regulations.

The right hon. Gentleman made the slightly churlish point that I used the word “annul”. He has been in the House for many years and knows well that there is a set form of words, over which the official Opposition have absolutely no choice, that triggers a debate. He knows that we would not be here had that not happened, and I now wish to get into the substance of the debate without taking further interventions for a while.

Construction is the sector in which there are the most fatalities and serious injuries. In recent years, there has been a decline in the number of accidents, which has been good news. In 2005–06 there were 59 fatal injuries to construction workers, compared with 69 in 2004–05. However, so far in the current year there have been 78. I am advised that the figure may come down after the Health and Safety Commission has done its full assessment, but the fact remains that construction is our most dangerous industry to work in, accounting for the largest number of fatalities, followed by agriculture. That is why I will propose additional measures that the Government could take to bring down the number of fatalities and to spread the net even wider than they intend to do with the regulations.

I should like to examine the outcome of the regulations and what they will achieve. It is important to do that, as is shown by an article in this month's issue of *Civil Engineering* by a Mr. Alasdair Beal, who is a chartered engineer thoroughly involved in such construction projects as we are considering. He makes the point that following the introduction of the Construction (Design and Management) Regulations 1994, which were brought in by a Conservative Government, as was the Health and Safety at Work Act 1974, for the first seven years there was no decrease in the number of fatalities per year. It was only in 2002 that there began to be a dip in the figures.

That is nothing new—the Health and Safety Executive is itself aware that the 1994 regulations did not lead to an immediate and sustained reduction in casualties. The fall from 2002 onwards might be attributable to other measures and perhaps to improved safety procedures on construction sites. The monitoring of the 2007 regulations, which came into force last month, is extremely important so that we can see whether they are having the effect that we want them to have.

I ask the Minister to consider a review of how the regulations progress. Will she agree to have such a review before the summer recess in 2008, which will be a couple of months after the end of the first year of their implementation? It will be fairly early days, I know, but she could look back on the first year and make publicly available her view and those of the Department and the Health and Safety Commission on how the implementation has fared, so that we can learn early lessons and, if necessary, tweak the regulations to make them work even better.

I would like to press the Minister on whether it is possible to provide more support to construction clients—those having building work done—in order to make the regulations more effective. Let me give her two examples of where that is done already in different sectors across Government. In the agricultural sector, the Health and Safety Executive has already a downloadable software package that takes farmers through a step-by-step guide to how they should implement the industry's health and safety regulations. Has she asked the Health and Safety Commission to provide a similar step-by-step software package that would help construction clients to implement the regulations? The Inland Revenue provides another example. It has a downloadable software package to help people through their tax returns. The regulations are complex and providing support to help people to implement them would be useful. At the moment, I cannot see much of that nature available to construction clients.

Smaller businesses are concerned about the complexity of the regulations. The Forum of Private Business undertook a survey and found that it takes an average of 14 hours per month for businesses to comply with current health and safety regulations—two seven-hour working days. It has concerns about the complexity and amount of administration that would be required to implement the proposals.

I have a central point to make to the Minister: I urge her to do more to integrate health and safety in construction with the planning permission and building control regime. Every year, some 605,000 planning applications are made, of which up to 200,000 will be deemed as F10s, which means that they will be notifiable to the Health and Safety Executive, at which point the provisions in the regulations will become enforceable. That leaves a little more than 400,000 applications, some 200,000 of which will be for domestic planning, to which CDM will not apply—an interesting point in itself, to which I shall return soon. That leaves just over 200,000 planning permission applications for non-domestic premises, to which the regulations will not apply.

I propose to the Minister that the regulations go further and faster and that their scope be widened. The Health and Safety Executive is looking into the matter, but as far as I am aware there has been no progress. The minutes of a Health and Safety Commission meeting on 17 October state:

“It also felt that work already begun with the Department for Communities and Local Government (DCLG) in relation to potential for integrating the Building Control, Planning and CDM regimes should be taken forward; and that early Local Authority involvement was important.”

I was delighted to see that, but we need more to be done. If the design and management requirement of the regulations had to be met to receive planning permission, the advantage would be that planning permission would not be given if satisfactory health and safety concerns were not evident in the proposals put forward to the local planning authorities.

I am well aware, as are other hon. Members, of the capacity constraints within local planning authorities; there are not enough planning officers and the system is under pressure. The solution is that planning permission and the granting of building control are charged for by local planning authorities. Those authorities have the means to set the requisite fees. None of us wants fees to be larger than they need to be, but they could be set at a level to provide a stream of income to employ the necessary planning officers. Planning permission and building control would not be given unless the design and management requirements of CDM were satisfactory.

Mr. Raynsford: The hon. Gentleman has put forward an extraordinary proposition. He accepts that the planning system is already heavily overburdened, yet he is suggesting a substantial increase in the responsibility of planning officers who have no technical training to make the type of assessment necessary under his proposal. Has he consulted the Royal Town Planning Institute, of which I am an honorary fellow, about these proposals?

Andrew Selous: The hon. Gentleman has a wide variety of posts, but I am not sure that his argument fully stands up because he will be aware that the regulations require an army of planning inspectors and co-ordinators—

Mr. Raynsford: No.

Andrew Selous: If the right hon. Gentleman did me the courtesy of allowing me to answer his question without interrupting me, it would be appreciated. There is a requirement for a vast increase in planning co-ordinators to implement CDM, so there will need to be training, planning and extra professional development to supply the required number of planning co-ordinators.

Mr. Raynsford: Will the hon. Gentleman give way?

Andrew Selous: No, I will not. I will finish my point in my own time. I have given way a couple of times to the right hon. Gentleman and I may well again, but I will make my point in my own way.

The advantage of ensuring greater scrutiny in the planning permission and building control regimes is that clients would know where they were and building projects would not get off the starting blocks unless the issues covered under the CDM regulations were fully taken into account.

There are also some legal issues relating to clients. When we talk about clients we need to have very small businesses in mind, for example a hairdressers—all constituencies have a hairdressers within them. Such businesses will only occasionally undertake building work and will have no inherent knowledge in relation to planning. They are not repeat clients who undertake a lot of building work.

Having the certainty of giving the plans to the local council and knowing that they had been approved, that they were fine and that the project could proceed would be much more satisfactory than what is proposed. At the moment, such businesses would have to appoint a planning co-ordinator. We are assuming a knowledge and expertise and putting responsibility on very small businesses—remember that 99 per cent. of

businesses in this country employ fewer than 49 people. We are not talking about large repeat clients or large construction products.

Linklaters, the well known solicitors firm, has made available a legal opinion that it is happy to put in the public domain. I should like to quote from it because it is instructive on a number of points and makes my point. The firm would like a greater alignment of the CDM regime with the planning and building regulations approval process:

“Since a one-off client will have no construction or design expertise, the amount of influence he will be able to exert over health and safety matters is unlikely to be significant, especially where that client is a relatively small entity.

The Approved Code of Practice acknowledges that many clients know little about construction health and safety and will have to rely upon the expertise of others but this does not change the fact that such clients will still be accountable should something go wrong. In addition to criminal liability, the scope for civil liability under CDM 2007, including a client’s civil liability, is greater than it was under the Construction (Design and Management) Regulations 1994.

The client’s duty under regulation 9 (which will apply to all projects, whether notifiable or not) is extremely broad. While clients can encourage co-operation between project participants and actively emphasise the importance of health and safety in a general sense, when it comes to the details of what is actually required, most clients (including repeat clients) are unlikely to have the expertise to know what that is. For example, how will a client without design or construction expertise know what constitutes suitable project management arrangements to ensure that any structure designed for use as a work place has been designed taking account of the provisions of the Workplace (Health, Safety and Welfare) Regulations 1992 which relate to the design of, and material used in, the structure (regulation 9(1)(c) CDM 2007)?”

Mr. Raynsford: Will the hon. Gentleman give way?

Andrew Selous: Not at the moment. The quote continues:

“Some of the client’s duties require the client to take ‘reasonable steps’ but others are absolute duties, such as the duty under regulation 16 in relation to the start of the construction phase where a project is notifiable. Under regulation 16, the client must ensure that the construction phase of a project does not start unless the principal contractor has prepared a construction phase plan which complies with CDM 2007 and the client is satisfied that the requirements as to the provision of welfare facilities will be complied with during the construction phase. These matters should be the responsibility of the principal contractor and any other contractors since they are in the best position to manage the risk and can price for it in their tenders. Although the CDM co-ordinator has a duty to give suitable and sufficient advice and assistance to the client on undertaking all the measures he needs to take to comply with CDM 2007 for the project, it is the client who will be liable should a problem occur. Responsibility should be allocated to those with the necessary expertise. It is difficult to see how the health and safety aspects of projects will be improved by imposing greater duties on those with no relevant knowledge or expertise. It may even have a negative impact.”

There is an issue of perverse incentive. If small businesses are worried about the additional civil and criminal liability that may apply to them should their construction, refurbishment or extension go wrong, they may decide not to go ahead with that work. That might mean that, because of the business’s concern about liability issues, conditions for its workers end up being less satisfactory than if the building work had gone ahead. I continue with the quote:

“The new client duties are extremely broad but relatively little guidance is given as to what they will require in practice. If clients are to be given greater responsibility, what is needed is detailed practical advice for different types of clients on different types of projects.

Some aspects of CDM 2007 are to be welcomed. For example, the issue of the timing of the appointment of the CDM co-ordinator has been clarified. However, the new legal requirement as to timing will not in itself necessarily ensure that appointments are not made late. For example, first-time clients are unlikely to know that it is their duty to appoint a CDM co-ordinator until/if informed of the duty to do so by an architect. It is possible that by this time they may already be in default. The Construction Clients’ Group have made the point that the CDM regime should be aligned with the planning and Building Regulations approval process. We consider this to be a sensible approach if it would ensure that practical guidance is given to clients at the earliest possible stage.”

Those are important points. As I said, there is an issue of perverse incentive. It is important to put those points on the record, so that we are absolutely clear about the nature and scope of the regulations that we are bringing in.

I repeat my earlier points to the Minister. I should be grateful if she said a number of things when she responds. First, will she kindly give the Committee an update on what action she, her Department and Lord McKenzie of Luton will take to ensure the fullest possible integration with the planning and building control regimes? Indeed, as the right hon. Member for Greenwich and Woolwich may wish to note, the Health and Safety Commission itself says that it wants that to happen; those calling for such integration include not only me as Opposition spokesman, but the Health and Safety Commission. We see good intentions and excellent aspirations, but we want delivery, which, we believe, could do more to improve health and safety and reduce fatalities and injuries, about which we are all concerned, than the current regime.

Secondly, in view of the poor impact of CDM 1994, will the Minister kindly ensure that a review of the progress of the regulations is put into the public domain after a suitable period? I have suggested one year, although if she and her officials think that it should be two or three, that will be fine. We could then be aware of what progress has been made and what further action is needed to ensure that we are making the gains in health and safety that we all want.

Thirdly, will the Minister say whether anything more will be undertaken to help businesses—particularly small businesses, which form the vast, overwhelming majority of businesses—to comply with these complicated issues? I have already said that it takes a small business owner an average two working days a month to comply with current health and safety regulations. It is beholden on the Department and the Health and Safety Executive to provide every possible assistance to businesses to ensure that they can comply with the regulations as fully as possible. I should be grateful if the Minister addressed those three points.

9.24 am

Susan Kramer (Richmond Park) (LD): I thank the hon. Member for South-West Bedfordshire for clarifying why we are here. I must confess to having been somewhat startled that this statutory instrument was prayed against. I fully accept that health and safety is a very important issue and needs to be debated, but I suspect that that needs to be in a broader context—a Westminster Hall debate would be extremely appropriate.

I say also to the hon. Gentleman that perhaps there has been some misunderstanding. I went to his party’s press office and looked through the trade press. In fact I have an excerpt from an article written by Dan Stewart published on 1 May in *Building*. The impression seems to have been that the debate was called in order to oppose the statutory instrument. The article says that there might not be a vote, but that

“if Ministers decide to vote, the Government will vote for the motion, and the Opposition against.”

I was rather startled by that. There were a lot of pictures of David Cameron. The implication seemed to be that it was part of a regulatory cost-cutting exercise.

Andrew Selous: I ask the hon. Lady to take what I said at face value. A set form of words is required in order to trigger this debate. Had we not used them, we would not be here today. It is as simple as that.

Susan Kramer: I fully accept the integrity and intent of the hon. Gentleman. Certainly, he has laid out his concern clearly and, if I understood correctly, has put forward proposals essentially to extend some of the regulations into the domestic construction arena, about which I have not had the opportunity to think.

Andrew Selous: The hon. Lady misheard me. I did not talk about domestic planning. That is another subject. From the figure of 605,000, I took out the 200,000 domestic planning applications, which left us with 200,000 business building extensions, which are not covered. That should be a source of concern, particularly as the bulk of accidents—75 per cent.—happen on smaller sites. They are not covered by the regulations, and I think that Members on the Government Benches should think seriously about that.

Susan Kramer: I thank the hon. Gentleman for that clarification. Indeed, I had misunderstood him. As I said, however, it is an interesting point that I had not thought about. I suspect that the industry will want to make a significant point on that, and I shall be glad to listen to it when it does.

I do not pretend to have any expertise in health and safety. My office got on the phone to talk fairly extensively to people who we know in the industry. I was incredibly impressed with concerns throughout the industry about health and safety and by its desire to see a significant decline in the number of deaths on building sites. One of the engineers pointed out to me that

“there are a large number of serious debilitating injuries each year which are less widely publicised as well as occupational issues for long term exposures which are rarely spoken of and all of which must be addressed—CDM2007 goes a long way towards this.”

Over and over, such concerns were reflected throughout the industry. We found that the regulations were generally welcome—the sense was that they would replace prior cumbersome and bureaucratic regulation that was not particularly effective or clear. It was felt that the new regulations were a sensible and balanced way forward. That was the general summary that we received.

We tried to sort out who was pro and who was critical. I was impressed that the Royal Institute of British Architects, the Institution of Civil Engineers and the Institute of Structural Engineers are strongly in favour. One organisation is always a touchstone: the Federation of Small Businesses. Of all the groups in the world, it most detests regulation, but it was pretty happy and felt that the regulations were balanced. I cannot quote it because I did not take down what it said word for word. Essentially, it felt that its conversations with the Health and Safety Executive had taken the regulations to a sensible place, and that it would be comfortable with the regulations, particularly when the industry guidelines had been issued.

That gave me great comfort in coming to the debate today. However, some groups are critical—the Forum of Private Businesses, the Construction Clients' Group and the British Property Federation are the main ones. They are concerned about the burden that might fall on very small businesses—fish and chip shops were used frequently as an example. I take comfort from the fact that the size of a project has to be fairly significant for the regulations to apply. I therefore think that the vast majority of small businesses will not be faced with an untenable requirement to have or hire in a knowledge base that is not part of their normal capacity.

The other criticism that seemed to surface was that the regulations would stifle innovation, particularly because they encompass designers. I am in favour of innovation but health and safety considerations are just

as important in an innovative design as in a traditional one. I hope that our designers and construction companies are good enough to be able to manage that combination.

Concern was expressed that new entrants into the construction industry might find it harder because they would not have the sort of established track record that could give comfort. That must be monitored and considered, but the problem in the British construction industry in the next decade or two will be a shortage of people available to do the work, rather than construction companies being without work. There will be a lot of new players coming into the industry, so the timing of getting a framework in place seems appropriate.

I am a Londoner, and the great spur is the Olympics. Between that and London's various transport projects, never mind the demand for housing, it will be boom time in this neck of the woods. That will have an impact on the availability of construction expertise in the whole country, so all over the country new firms will come into being and expand. Many of them will come from other countries, which may or may not have good health and safety regimes, so having a coherent regime at this time strikes me as even more critical.

I see no reason to remain on my feet any longer, Mr. Wilshire, because I think that you have got the sense of where my contribution is going. I wish simply to add two little things on which we should like responses from the Minister. One is monitoring, because prior regulation has not had the success that we would have liked. It behoves us to understand how the new regulations will be monitored to ensure their success.

The integration of the planning system and building regulations is widely supported, and everybody recognises that there are so many different institutional bits that it will take a lot of thought, time and effort to work out how on earth all the pieces should be put together. The picture is fragmented and complicated, and that jigsaw puzzle will have to be carefully formed. However, I join in saying that that is an important direction of travel, and the Minister's comments on it would be welcome.

Interestingly enough, most of the people whom we were able to reach on the phone raised the issue of penalties. They said that it is important that regulations be enforced and that people think that they will face a penalty that matters. I therefore wish to raise with the Minister the matter of enforcement and ensuring that people feel that there is a genuine incentive to do what is needed. There is now an opportunity to do that holistically across the life of a project, and that is important.

Several hon. Members *rose*—

The Chairman: Order. I call Mr. Raynsford. Perhaps, in view of his previous declarations and the example used by Mr. Selous, he could start by telling us whether he is a member of the national hairdressing council.

9.34 am

Mr. Raynsford: Thank you, Mr. Wilshire. I have no connection with the hairdressing industry, but as a former Minister with responsibility for construction, I have given a lot of attention to the issues at hand over many years and subsequently maintained close contacts with many in the industry. I hope that I can speak from the basis of some knowledge of the subject.

Andrew Selous: I owe the right hon. Gentleman and the Committee an apology. In fact I met the Construction Confederation. I confused the bodies after he mentioned the Construction Industry Council. The Construction Confederation describes itself as the

“main representative organisation for building and civil engineering contractors within the UK construction industry, an umbrella group consisting of”

organisations that I shall not go through. If you will forgive me, Mr. Wilshire, that was the organisation that I met. I apologise to the Committee.

Mr. Raynsford *rose*—

The Chairman: Order. That matter having been cleared up, I ask the Committee to leave it there.

Mr. Raynsford: May I express my appreciation to the hon. Member for South-West Bedfordshire? The reason for my intervention was that he was perhaps giving an incorrect impression. I stress that the Construction Confederation is the main body representing contractors, the Construction Industry Council is the main body representing professionals—designers and others—and the Construction Products Association is the main body representing manufacturers. Those are the three main umbrella bodies in the industry. They come together through the Strategic Forum for Construction, chaired by James Wates, which has played an important role in promoting a safety culture and strongly supports the regulations. I stress that before I give way again.

Andrew Selous: For the record, I met James Wates at the meeting, so perhaps I was in part correct, if he was wearing that hat.

Mr. Raynsford: I am delighted that the hon. Gentleman has met some key players in the industry, because my reading of today is that we are going through a process of the Opposition trying to get away from their embarrassment at having tabled an early-day motion and prayed for the annulment of the regulations. I have to say to him that, if he had wanted a debate, one in Opposition time or Westminster Hall was perfectly possible, and we could have had a wide-ranging debate. We are here specifically because there is a prayer from the Opposition seeking to annul the regulations, which would be a serious mistake. I am delighted that he now does not wish to pursue the line that his party implied to *Building* magazine, in which it was quoted as saying that it would vote against the regulations, as the hon. the Member for Richmond Park made clear.

The Parliamentary Under-Secretary of State for Work and Pensions (Mrs. Anne McGuire): Will my right hon. Friend join me in welcoming Opposition input to the debate in Westminster Hall next week on construction industry fatalities, which will perhaps give us an opportunity to discuss some of the issues raised this morning in a far wider context?

Mr. Raynsford: My hon. Friend makes a good point that there are always opportunities in Westminster Hall. Next week is a good one. We should consider the issue seriously. As the hon. Member for South-West Bedfordshire rightly highlighted, the construction industry has an unfortunate record on health and safety over many years. Some 2,800 people have died from injuries received in construction work over the past 25 years. That record is of deep concern to the industry and all those connected with the industry are determined to change that.

The CDM regulations that we are debating today are an improvement on and an amendment to regulations that were introduced in 1994. The hon. Gentleman said that those regulations did not perhaps make much of an impact in their early years, but he accepted that there have been significant improvements in health and safety since 2002. He did not pursue the reasons for that, but it is important for the Committee to be aware that in 2001 the Deputy Prime Minister convened a health and safety summit for the construction industry to highlight the problem and to secure commitments from industry leaders and trade unions about achieving a health and safety culture that would drive down the number of fatalities, serious accidents and illnesses—illness as a result of exposure to chemicals and other materials is also a critical issue.

That summit was pivotal in creating a climate where the industry has been working much more effectively and in a more integrated way to achieve reductions in fatalities and to improve the health and safety culture. Despite such progress, we all know that, in 2006–07, it looks as though there will be a short-term increase, which is very regrettable. There is no possible case for any relaxation in our drive to attack the problem of health and safety in the construction industry and to achieve safer working practices.

The process by which the regulations have been produced has been lengthy and has involved extensive consultation since 2002. The Health and Safety Executive published a discussion document in 2002 setting out proposed changes to make the regulations less bureaucratic and to ensure that all parties, including clients, work together to have a huge impact on health and safety.

The practice of leading from the top, where the lead is taken by the client, senior contractors and lead designers, is crucial in creating a safety culture. An interesting recent example of that was the Jubilee line extension. That huge project, which cost about £3.5 billion, was dangerous—tunnelling is always dangerous—but was completed without any fatalities. That is almost unprecedented, and reflects the strong health and safety culture being driven by the client and the main contractors.

The client's role is crucial. Those who say that it is unreasonable to impose an obligation on clients do not understand that clients have a key role to play. They are not exposed to potential penalties that they do not understand because, as all hon. Members who have studied the regulations will realise, designers and contractors are obliged to alert clients to their responsibilities. The regulations achieve an interlocking series of relationships to ensure that all parties in a construction contract understand and meet their health and safety obligations. That is why clients should be part of the picture. That obligation is not unreasonable, and the many clients who have been involved in the consultation recognise the importance of their role and that they should be part of the process.

The suggestion of the hon. Member for South-West Bedfordshire that the industry is somehow unaware of what is coming and that people are unprepared for the regulations is very wide of the mark.

Andrew Selous: The right hon. Gentleman is completely right to say that the industry is aware and prepared. My point is that most businesses are small businesses that get involved with building work only very occasionally and that we must help them to comply. We should consider how we can enlarge the scope to ensure that all the works that they undertake are covered, because many are not.

Mr. Raynsford: The hon. Gentleman has given various quotes, so perhaps I may quote Keith Clarke, who is the chief executive of Atkins, one of the country's leading consultancies, and who also happens to chair the health and safety committee of the Construction Industry Council. In a briefing, which should have been sent to all members of the Committee—I hope that the hon. Gentleman has seen it—Mr. Clarke wrote:

“Over the last few months there has been a huge commitment by all sectors of the industry to understand the new regulations and prepare to implement them. There have been literally hundreds of lectures, conferences and training sessions on the subject all over the country. There is currently a strong impetus to understand and implement CDM 2007, which is based on our fundamental belief that this is a sensible revision to the law. If the regulations are revoked this will inevitably be seen as a lack of political commitment to health and safety in the construction industry, at a time when the number of fatalities is again increasing”.

That is a clear commitment from someone who understands—from the design perspective as well as the contracting perspective, because he was previously the chief executive of a major contractor—the importance of all elements in the industry working together in a co-ordinated way.

That support is reinforced by the evidence submitted by the Royal Institute of British Architects, to which the hon. Member for Richmond Park referred. Its briefing says:

“The new regulations make explicit what was previously implicit—the need for all those involved in construction to co-operate and take proper responsibility for their health and safety responsibilities. The regulations clarify the respective roles of designers, clients and contractors and, in doing so, will further professionalise the construction industry as one which takes its responsibilities seriously.”

That body has a great deal of experience and understands the importance of everyone pulling together.

The briefing goes on to make another important point:

“It is no argument to say that the new regulations will impose disproportionate burdens on”

small and medium enterprises

“and one-off clients. Most clients—whether individuals commissioning a domestic project or a board of school governors leading a school rebuilding programme—will only be a client once. Just as they will have to have to familiarise themselves with and adhere to planning controls and Building Regulations, so they must discharge their health and safety obligations for the sake of those individuals on the construction site. Clients often need help: the regulations and accompanying documents provide a framework within which they can work and receive advice.”

The truth is that the regulations are the product of considerable attention and care given over time by all those with an interest in promoting health and safety in construction and in reducing the number of fatalities and injuries sustained on construction sites. This is not a case of unnecessary regulation, as some people might suggest. It is a case of sensible regulation that is much more proportionate than the 1994 approach and that seeks to encourage a common sense of responsibility among all parties in order to achieve the outcome that the regulations are designed to achieve.

The regulations have been warmly welcomed by all the major bodies in the industry, which have been consulted. It would send an entirely perverse message were the Committee to do anything other than endorse the regulations wholeheartedly, so I sincerely hope that they will be passed. I am glad to hear that the Opposition will not now vote against them. I hope that we can move forward, recognising that the regulations are essential to achieve a greater health and safety culture in one of our most important industries.

9.46 am

Mrs. McGuire: It is a pleasure for me to serve as a Minister under your chairmanship, Mr. Wilshire. Many a long day I remember when I was a Government Whip and you were an Opposition Whip. We had a constructive relationship on this Committee Corridor, not least on the Proceeds of Crime Bill.

The Chairman: I hope that the Minister is impressed by my relative silence these days.

Mrs. McGuire: I am, but I have to say that I think your taste in ties has become a bit dull since you became a member of the establishment. Anyway, I am delighted to be here and to see you in the Chair.

I share the incredulity of the hon. Member for Richmond Park and my right hon. Friend the Member for Greenwich and Woolwich as to exactly why we are here this morning. I appreciate that the hon. Member for South-West Bedfordshire has explained to some extent why we are here, but I suspect that what we have seen this morning is a feat of political athleticism, with the Conservatives rowing back from a position that they established when they laid down the initial prayer.

I hope that the hon. Gentleman will accept that there is cynicism as to why we are here this morning, because only a few days ago, on 27 April, when there was another opportunity to deal with important issues relating to health and safety in relation to the Health and Safety (Offences) Bill, which is about increasing the penalties for breaches of health and safety regulations, the Opposition used almost exactly the same argument as to why they wanted to scupper that legislation, which was, “We are looking to scrutinise this issue properly.”

I accept the hon. Gentleman’s sincerity here this morning, but on two occasions in recent weeks we have seen the Conservative Opposition attempt to flag up, as some sort of regulatory burden on small businesses,

the issue of health and safety. I therefore hope that he will take the message back to those on the Conservative Front Bench that the next time they want to use a parliamentary procedure to deal with an important issue of health and safety, they should think first about the message that they are giving, because undoubtedly, despite the fact that he has pulled back from the original position, the message that has been given here this morning to the construction industry, to clients and, let me be frank with him, to cowboy builders is that the Conservative Opposition want to annul regulations that are about improving the health and safety of workers in this country.

Andrew Selous: I am grateful to the Minister for accepting my sincerity on the issue, but I make the point to her that it is our concern about the cowboy builder element of the market that has led us to make what I hope she considers are constructive proposals. I know that she will tell me why she does not want to go down the road that I have proposed, but my proposals on building regulations would catch the cowboy sector, which would come under the notifiability provisions of the regulations. I hope that she will deal with that in her speech.

Mrs. McGuire: I hope that the hon. Gentleman will accept that those who support the regulations have said that there has been extensive discussion on the regulations over a long period. I accept his position, but we are committed to improving health and safety in the construction industry, which, as he has said, is one of the most dangerous industries in Britain. The industry employs 7 per cent. of the working population and is responsible for 25 per cent. of fatal injuries and 16 per cent. of major accidents. I would have hoped for a spirit of unity to improve the health and safety record in the construction industry, and that would not have included what is frankly a mischievous use of a parliamentary procedure. The Opposition have given out a message that is unhelpful in dealing with the very issues that the hon. Gentleman has highlighted this morning.

I hope to deal with the points made during the debate. *[Interruption.]* I do not know if the hon. Gentleman wishes to intervene or if he just wants to chunter from a sedentary position. I will let him chunter.

The regulations are not intended to add to the administrative burdens already placed on businesses. On the contrary, they are intended to reduce those burdens and to provide the capacity to bring greater benefits to business—particularly small business. We should be careful as regards what we ask clients to do under the regulations. Is there adequate protection for the client's workers and members of the public? Has the contractor provided welfare facilities—somewhere for the workers to go to the toilet and somewhere for them to wash their hands? If people are working on a roof, has the contractor provided a scaffold? Providing those facilities is not exactly rocket science. I know that the hon. Gentleman takes a great interest in religious matters. If he reads Deuteronomy, chapter 22, verse 8, he will see that it states:

“When you build a new house, put a parapet around the roof; otherwise, if someone falls off, you will bring bloodguilt upon your house.”

That shows that health and safety regulations are not exactly a new concept.

The difficulty is that the Opposition give out the message that on health and safety issues they immediately see regulation and burden, whereas we see the welfare of the construction worker. I hope that the debate has been a learning experience for the hon. Gentleman.

As the hon. Member for Richmond Park said, we all recognise that construction is currently a boom industry that has tens of thousands of people working in it—particularly because of major projects such as the Olympics and Paralympics, Liverpool city of culture, and, I hope, Glasgow becoming the Commonwealth capital in 2014. Such a growth in building projects generates the need for competent and skilled people, and we need to keep those people safe. That means putting responsibility for their health and safety in the hands of those best placed to influence the issue.

Contrary to the comments of some bodies that have been highlighted by the hon. Gentleman, the regulations are not ill conceived or hastily thrown together and that has been demonstrated by my right hon. Friend the Member for Greenwich and Woolwich. The regulations were developed over four years. I would give the position of the Opposition more respect if they had been involved in the discussions held during that time. Instead, they have come in at the tail-end of a long process that has included all the stakeholders. The regulations have been revised and looked at again and again in order to refine them. Despite that, the Opposition have decided, at this stage, to use an annulment procedure in the House. As my right hon. Friend has clearly said, there has been widespread support for the regulations. However, to be fair, that does not mean that all the details have been accepted. There are still matters on which organisations consider there is some room for manoeuvre.

Of course, as the hon. Gentleman said, the industry generally supported the 1994 CDM aims and principles, but it was critical of them. That is why we initiated the consultation. There were two construction summits in 2001 and 2005, and at last year's "Buying For Life" event for public sector clients the Government made their views clear. Along the way, there were all sorts of opportunities where the Opposition could have intervened and given us the benefit of their wisdom on this matter.

We want the Government to be an exemplar of construction client behaviour, particularly regarding procurement. I know that my right hon. Friend the Member for Greenwich and Woolwich was crucial in achieving some of the developments in that area when he was a Minister. At this point, I pay tribute to him for the amount of work that he did when he was a Minister.

To be frank, we now appear to have almost unanimity on this matter, despite what we thought when we arrived here this morning. I would like to deal specifically with some of the issues that were raised. Regarding the integration of the planning regime, which the hon. Member for Richmond Park and the hon. Member for South-West Bedfordshire mentioned, that will, of course, take time to achieve. I think that the hon. Lady identified that it would take time, effort and energy across the industry to ensure that integration happens.

The hon. Gentleman raised the issue of monitoring. Baseline research has already been carried out and the Health and Safety Commission intends to evaluate the CDM 2007 in line with the current better regulation guidance. Research has also been commissioned on the effectiveness of the CDM messages.

Andrew Selous: I am grateful to the Minister for responding to the points that were raised by the Opposition. I wonder whether she could say a little more about the first issue that she mentioned, the integration of CDM with the planning and building control regime, which the HSC itself said in the 17 October minute it wants to see. Can she give us a little more idea of the timetable, or commitment, so that we know when we will arrive at that integration? At the moment, it is just an aspiration and there is real worry that we have duplication here. If we can fuse those two processes, we will see improvements.

Mrs. McGuire: I do not want to detract from what I have said. I will not give specific time scales this morning, because, as all of us would acknowledge, in working with a range of stakeholders and recognising some of the implications of integration, we must give that process the time that it requires. However, it is very much on the HSC's agenda.

May I also highlight the issue of the small hairdresser? As the hon. Member for Richmond Park pointed out, we are talking about projects that take over 30 days. I do not know what kind of small hairdresser the hon. Gentleman goes to; I go to a pretty small hairdresser, who, I have to say, does a lovely job. A 30-day project for that small hairdresser would be a significant building project, as for any small business. Therefore, in trying to highlight the issue of the small hairdresser or small shop, he is again in danger of giving out a negative message about where the impact of the measure will be felt. I hope that he would think again about the sort of message that he is giving out to small businesses.

I find it interesting that the hon. Gentleman is asking for a widening of scope. HSC has considered whether that area should be part of the CDM regulations. In fact, HSC's assessment—I think that it would be shared by the industry—was that to widen the scope would be disproportionate to the risks on small sites. People may have different views on that issue, but that is certainly HSC's assessment at the moment.

Regarding the review of the implementation within the first year, although the hon. Gentleman raised that issue in his opening remarks I was pleased to hear him clarify his views in a later intervention. He is now drawing back from the first year, and saying that the review could be conducted over two or three years. I think that he would accept—I hope that he realised this after his initial contribution—that a review at the end of one year would be far too soon for a formal review. Obviously the HSC will keep the regulations under review and we will be commissioning research long before the usual five-year review.

Regarding the support for construction clients, the Construction Clients' Group is drafting guidance for them. There is comprehensive guidance in the approved code of practice. A couple of hon. Members mentioned information and the HSE is reissuing the information sheet. It will be free and also on the HSE's website.

I am delighted that the hon. Gentleman has rowed back from what appeared to be a nuclear option on this set of regulations. CDM 2007 is a great leap forward in the way in which we are codifying our regulations and the messages that we are giving out to the industry, particularly in relation to the issue raised by the hon. Member for Richmond Park about migrant workers who perhaps come from a country which does not have such a culture of health and safety regulations. We do not want people to take advantage of that lack of cultural environment in terms of health and safety to undermine our work on health and safety in the construction industry over many years.

I am delighted that the Opposition are not going to press the regulations to a vote. I am delighted also that they have listened to the pleas of the industry. I know that the Leader of the Opposition's emails have been well used over the past few weeks to identify the views of the industry. The CBI, the TUC, the construction industry professional bodies, the National Association of Shopfitters and Uncle Tom Cobley all think that this is a good thing and that these regulations are a step forward—some would even call them a leap forward—in dealing with health and safety issues in the construction industry.

I leave the hon. Member for South-West Bedfordshire with this final piece of advice and I do not mean it in a patronising way. The next time that the Conservative Opposition want to look at health and safety issues, perhaps they should reflect just a little longer on the messages that they are giving out when they appear to oppose what is a sensible way forward in developing a health and safety culture in our construction industry.

10.3 am

Andrew Selous: I shall be very brief. We have had a satisfactory conclusion to this debate. It was never our intention to vote against these regulations. I have said all that I can say. I thank the Minister for the way she has responded and I ask her to reflect on some of our requests, so that we can monitor this important issue.

Question put and agreed to.

Resolved,

That the Committee has considered the Construction (Design and Management) Regulations 2007 (S.I. 2007, No. 320).

Committee rose at three minutes past Ten o'clock.