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Designer Safety Duty under the Indian OSH Code 2020 Compared with the UK CDM Regulations 2015

More Machinery, Not Stricter Words

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***Abstract* - The Occupational Safety, Health and Working Conditions Code, 2020 of India came into force on 21 November 2025 and repealed the Building and Other Construction Workers Act, 1996. Section 9 of the Code keeps a duty that Indian construction law has carried for decades: the architect, project engineer or designer must give due consideration to the safety of building workers at the planning stage. This paper compares that single section, clause by clause, with the designer and principal-designer provisions of the UK Construction (Design and Management) Regulations 2015, regulations 9, 11 and 12. The comparison is doctrinal, based on the statutory texts and on official guidance. Its finding runs against a common assumption. The UK duty is not written more strictly than the Indian one; its operative standard, so far as is reasonably practicable, is arguably gentler than the adequate care standard of Section 9. What the UK adds is machinery: a duty to pass design risk information on, a coordinator for the pre-construction phase, a linked client duty, a construction phase plan and a health and safety file. Section 9 has none of these, and on the sources read for this paper, no rule under the Code supplies them. The paper argues that a duty framed as due consideration, with no record and no recipient, cannot be audited, and suggests four low-cost additions that could be made at the level of rules or guidance without amending the Code.**

Keywords* - *OSH Code 2020; designer duty; prevention through design; CDM 2015; principal designer; construction safety law; India

I. INTRODUCTION

Ask who is legally responsible for safety on an Indian building site and the answer comes quickly: the employer, the contractor, the principal employer. The architect barely features. Yet the decisions that most shape a site's risks are taken before any worker arrives: where a basement is dug and how deep, whether a lift shaft is open during construction, how a floor edge is detailed, what sequence the structure is built in. One section of the new Code speaks to this. Section 9 says the architect, project engineer or designer must make sure that safety and health are given due consideration at the planning stage.

The question for this paper is whether that section, as written, can do the work it is meant to do. I test it by reading it next to the one regime that has tried hardest to turn designer responsibility into working law, the UK's CDM Regulations 2015. The comparison is not meant to suggest that India should copy Britain. It is a way of seeing what is present and what is missing in Section 9, because absences are hard to notice in a text read on its own.

The argument developed below has three steps. First, Section 9 sets a standard of conduct but supplies no process for showing it was met. Second, the UK regime is built around exactly those missing processes, not around a tougher standard. Third, the processes could be introduced in India through rules and guidance, without reopening the Code. The paper also records what I could not establish, including which penalty section applies to a Section 9 breach, because the answer matters for anyone advising a design practice.

II. BACKGROUND

A. Why the designer, and why now

Research from the United States and Europe has linked a substantial share of construction fatalities to design decisions. Behm [1], working from fatality records, reported that 42 per cent of 224 cases had a link to design [VERIFY figures against the paper], and Gambatese, Behm and Rajendran [2] collected expert views on how design contributes to accident causation and how it could prevent it. Toole and Gambatese [3] described how the field of prevention through design developed. [INSERT: 3–5 more references, including one Indian study on construction accident causes and one on designer attitudes to safety.] That literature is not about Indian practice. I use it only to establish why a legal duty on designers is worth examining, and I do not claim it quantifies design's role in India.

B. The Indian transition

The OSH Code, 2020 took effect on 21 November 2025 [4]. Section 143(1)(s) of the Code [5] repeals the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. Under Section 143(3), anything done and any rules made under the repealed Acts are treated as made under the Code and remain in force to the extent they are not contrary to it, until the Central Government repeals them. That matters for this paper: the designer's duty did not start in 2025. An earlier text of almost identical wording, reproduced in the Indian rules for building workers, already placed the duty on architects and designers

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[INSERT: cite the specific rule of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Central Rules, 1998 by number and verify the wording against the official text].

Rules under the new Code are still settling. The Central Rules were notified on 8 May 2026 as G.S.R. 345(E) [6]. A draft set of Telangana rules was issued by the state's labour department on the same date, with objections invited within 45 days [7]. [VERIFY: whether the Telangana rules have since been finalised; this was not checked.]

III. METHOD

The method is doctrinal. I took the operative text of Section 9 of the Code from the official India Code PDF [5] and the text of regulations 9, 11 and 12 of CDM 2015 from the version printed on legislation.gov.uk as originally made [8], and used the Health and Safety Executive's guidance pages [9], [10] for the UK regime's own account of itself. I then built a clause matrix with twelve attributes: who is bound, when the duty applies, the standard of care, whether a hierarchy of control is set out, whose safety is protected, maintenance and use of the finished structure, information handover, coordination, the link to the client, plans and records, enforcement, and subordinate rules. Each attribute was filled from the text alone.

The limits of this method should be stated plainly. The statutes were read through online copies, not annotated legal databases. I read about the first 200,000 of roughly 289,000 characters of the Code, so statements that something is absent apply to Section 9 and the parts read. I did not review case law, and CDM 2015 has been amended since it was made [VERIFY: check regulations 9, 11 and 12 against the current revised text]. I read about two-thirds of the Central Rules 2026 text. The Telangana draft rules were not available to me in full. Quotations are kept short and paraphrase is used elsewhere; readers should check wording against the statute.

IV. THE INDIAN PROVISION

A. What Section 9 says

Section 9 sits in Chapter III, which deals with duties of employers and employees. It has three sub-sections.

Section 9(1) makes it the duty of the architect, project engineer or designer responsible for a building or other construction work, or for the design of a project or part of one, "to ensure that, at the planning stage, due consideration is given to the safety and health aspects" of the building workers and employees engaged in the erection, operation and execution of the project. Section 9(2) adds that adequate care must be taken by the architect, project engineer and other professionals involved "not to include anything in the design" involving dangerous structures, processes or materials hazardous to those workers. Section 9(3) extends the concern to maintenance and upkeep of structures, but only where those activities involve hazards that the appropriate Government has notified.

Read closely, the section does three things. It binds a defined group of professionals. It fixes the moment at which they must act, the planning stage. And it states the standard as consideration (9(1)) and care (9(2)). Four features stand out by their absence. There is no requirement to record what was considered. There is no requirement to tell anyone, whether the client, the contractor or other designers, what risks remain in the design. There is no coordinating role when several designers work on a project. And the maintenance limb depends on a notification by the appropriate Government. I found no such notification in the sources I read [VERIFY].

B. The surrounding provisions

Section 9 does not stand alone. Section 6(1)(h) and 6(2) place on the employer the duty to ensure the safety and health of workers and others in building or other construction work. Section 10 requires notice of accidents, including fatal accidents in construction establishments, and provides for inquiry. Section 18 allows the Central Government to notify safety standards for building and other construction work. Section 22(2) requires safety officers in construction work where 250 or more workers are employed. None of these refers back to Section 9 or asks the employer to obtain anything from the designer.

C. Penalties

Section 9 carries no penalty of its own. Chapter XII (sections 94 to 106) holds the penalty provisions. Section 94 is a general penalty for contraventions where no other provision applies: on the extract I read, it makes the employer or principal employer liable to a penalty of two to three lakh rupees, with a further daily penalty for continuing contraventions. Section 97 covers contraventions of provisions of the Code or rules not otherwise penalised, with a lower penalty of fifty thousand to one lakh rupees and imprisonment for repeat offences. Section 103 applies where failure to comply with duties under the Code results in death or serious bodily injury; for death it provides imprisonment of up to two years, a fine of at least five lakh rupees, or both.

Which of these applies to an architect who breaches Section 9 is, on my reading, unsettled. Section 94, as I read it, penalises the employer or principal employer, not the designer. Section 97 speaks of any person who contravenes. Section 103 turns on a person's failure to comply with duties under the Code, which would include Section 9 on its face. I could not resolve this from the text and [INSERT: obtain a legal opinion or a reported decision before relying on any of these routes; read sections 94, 97 and 103 in full].

D. Subordinate rules

In the part of the Central Rules 2026 I read [11], there is no rule on architects, designers or project engineers and no design-stage safety duty. The rules do contain construction-specific provisions: a notice of commencement for establishments relating to building or other construction work (Rule 4), safety officers where 250 or more workers are ordinarily employed (Rule 18), lighting and cable standards for construction sites (Rule 46 proviso) and temporary living accommodation (Rule 62). The term safety management plan appears only in the rule dealing with mines. I did not read the final third of the text, and the Telangana draft was not

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available in full [INSERT: search both texts for the words architect, designer, design and plan to confirm].

V. THE UK REGIME

CDM 2015 distributes responsibility across several dutyholders. The HSE's summary identifies the client, the principal designer, designers, the principal contractor and contractors, and describes the client as responsible for suitable management arrangements, for providing relevant information including pre-construction information, and for making sure the principal designer and principal contractor carry out their duties [9]. [VERIFY: client duties under regulation 4 were taken from the HSE summary and not from the regulation text.]

A. Regulation 9: designers

Regulation 9(1) stops a designer from starting work on a project unless satisfied that the client is aware of the client's duties. Regulation 9(2) requires a designer, when preparing or modifying a design, to take account of the general principles of prevention and any pre-construction information "to eliminate, so far as is reasonably practicable, foreseeable risks" to people carrying out or liable to be affected by construction work, people maintaining or cleaning a structure, and people using a structure designed as a workplace. Regulation 9(3) deals with what cannot be eliminated: the designer must, so far as reasonably practicable, reduce or control it through later design, give information about it to the principal designer, and ensure suitable information goes into the health and safety file. Regulation 9(4) obliges the designer to take all reasonable steps to give with the design enough information about its construction or maintenance to assist the client, other designers and contractors in meeting their own duties.

B. Regulation 11: the principal designer

Where a project involves more than one contractor, the client appoints a principal designer. Regulation 11(1) requires the principal designer to plan, manage and monitor the pre-construction phase and coordinate health and safety matters in it. Regulation 11(3) requires identification and elimination or control, so far as reasonably practicable, of foreseeable risks. Regulation 11(4) makes the principal designer responsible for ensuring that designers comply with regulation 9. Regulation 11(6) requires help for the client with pre-construction information and its prompt provision to every designer and contractor appointed or under consideration, and regulation 11(7) requires liaison with the principal contractor through the construction phase.

C. Regulation 12: plan and file

Regulation 12 supplies the documents. The principal contractor must draw up a construction phase plan before the site is set up (12(1)), and the principal designer must help by passing on all relevant information it holds, including pre-construction information and design risk information received under regulation 9(3)(b) (12(3)). The principal designer prepares a health and safety file during the pre-construction phase (12(5)), keeps it under review (12(6)), receives information from the principal contractor during the project (12(7)), and at the end hands it to the client (12(10)). [VERIFY: these paragraph numbers are from the as-made version; confirm against the current text.]

VI.COMPARISON

Table I sets the two regimes side by side on the twelve attributes. Where I did not read the source in full, the cell says so.

TABLE I. CLAUSE MATRIX: OSH CODE 2020 S.9 AND CDM 2015 REGS 9, 11 AND 12

Attribute	OSH Code 2020, s.9	CDM 2015
1. Who is bound	Architect, project engineer or designer responsible for the work or its design (9(1)); other professionals involved (9(2))	Designers (reg 9); principal designer where more than one contractor (reg 11); client has linked duties [VERIFY reg 2 definition of designer]
2. When	"At the planning stage" (9(1))	When preparing or modifying a design (9(2)); not to start unless client is aware of duties (9(1))
3. Standard of care	Ensure "due consideration" is given (9(1)); "adequate care" not to include dangerous structures, processes or materials (9(2))	Eliminate foreseeable risks "so far as is reasonably practicable" (9(2))
4. Hierarchy of control	None stated	General principles of prevention; eliminate, then reduce or control (9(2), 9(3))
5. Whose safety	Building workers and employees employed in erection, operation and execution (9(1), 9(2))	Anyone carrying out or liable to be affected by construction work; those maintaining or cleaning; users of a workplace structure (9(2))
6. Maintenance and use	Only where hazards are notified by the appropriate Government (9(3)); no notification found [VERIFY]	Unconditional: maintaining, cleaning and workplace use included (9(2)(b), (c))
7. Information handover	None in s.9	Give risk information to the principal designer (9(3)(b)); put it in the H&S file (9(3)(c)); provide sufficient information with the design (9(4))
8. Coordination	None; no lead designer	Principal designer plans, manages, monitors and coordinates pre-construction phase and ensures designers comply (11(1), 11(4))
9. Link to client	None in s.9	Designer must be satisfied the client is aware of duties (9(1)); principal designer helps with pre-construction information (11(6)); client duties in reg 4 [VERIFY]
10. Plan and file	None in s.9; no construction safety plan found in Central Rules read	Construction phase plan (12(1)–(4)); health and safety file prepared, updated and handed to client (12(5)–(10))

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Attribute	OSH Code 2020, s.9	CDM 2015
11. Enforcement	No penalty of its own; route unclear between ss.94, 97 and 103	Breach of the Regulations is enforceable by the HSE [VERIFY: enforcement route under the Health and Safety at Work etc. Act 1974]
12. Subordinate rules	No designer rule in part of Central Rules 2026 read; Telangana draft not read	Regulations are themselves the operative text; HSE guidance and approved code [VERIFY]

Sources: India Code text of Act 37 of 2020; legislation.gov.uk (SI 2015/51, as made); HSE guidance pages. Section and regulation numbers in brackets.

VII. DISCUSSION

A. *The standard is not the difference*

It is tempting to conclude that the UK regime is tougher. On the wording of the central duty, I do not think it is. 'So far as is reasonably practicable' is a qualified standard: it lets the designer weigh the risk against the cost and difficulty of removing it. Section 9(2), by contrast, speaks of adequate care not to include anything in the design that would involve dangerous structures, processes or materials, with no express qualifier. A literal reading of the Indian text is, if anything, the more demanding one.

What makes the UK duty effective is everything that surrounds it. The designer has someone to tell, the principal designer. The designer has something to hand over, risk information with the design. The information has somewhere to go, the construction phase plan and the health and safety file. A named person has the job of making the designers comply. And the client is bound into the chain, so a designer cannot be the last to find out what the client expected. Remove those and regulation 9 would look much like Section 9.

B. *A duty of mind is hard to audit*

Section 9(1) asks that 'due consideration' be given. That is a duty about a mental act, and it is satisfied silently. If a designer considered a hazard and moved on, or never thought of it, the file looks identical. An inspector arriving after an accident has nothing to examine, and the designer, if prosecuted, has nothing to produce in defence. The absence of a record hurts both sides.

There is a related practical problem. Even where a designer does flag a hazard, nothing in Section 9 requires that the flag reach the contractor. On an Indian site the contractor often inherits drawings with no statement of what the designer assumed about excavation support, edge protection or the sequence of work. The duty to consider has been performed; the benefit of having considered has gone nowhere.

C. *Enforcement is the weakest link in what I could read*

A duty without a clear penalty route is a statement of principle. If Section 94 penalises the employer or principal employer, a designer's breach of Section 9 produces no liability for the designer at all. If Section 97 applies, the penalty is modest. If Section 103 applies, it can be severe but only where death or serious injury follows. A practising architect would reasonably want to know which applies. I flag this as the most consequential open point in the paper, and one on which a lawyer's reading is needed.

D. *What could be done without amending the Code*

The Code does allow rules and standards to fill in detail, and Section 18 allows the Central Government to notify safety standards for building and other construction work. The additions below are my proposals, offered as suggestions to be tested rather than conclusions of this study.

- A one-page design risk record. At the time of submitting drawings for approval or issuing the tender set, the designer records the main construction hazards identified in the design (excavation depth and support assumptions, open shafts and edges, heavy or awkward elements, nearby overhead lines) and what was done about each. This gives Section 9(1) something to audit.
- A handover note. The risk record goes to the client and, through the client, to the contractor before work starts, so that regulation 9(3) of the UK regime, passing on residual risk, has an Indian equivalent.
- A scale trigger. Applying this to every small residential job would not be realistic. India already has a threshold that project proponents know: under item 8(a) of the EIA Notification 2006, building and construction projects with built-up area of 20,000 square metres or more, up to but excluding 150,000, need prior environmental clearance [12] [VERIFY against the Notification text]. The same line could set the point above which a design risk record and a named lead designer are required. I am not arguing that the thresholds are right for safety, only that using an existing administrative line would be cheap.
- A lead designer for multi-designer projects. One designated person coordinates the record, as the principal designer does in the UK, without importing the whole role.

All four need testing, with architects and contractors, for cost and for what they would actually be used for. The UK system has its own critics and its documents can become paper exercises [INSERT: one or two references on how CDM paperwork has worked in practice]. The aim here is a defensible starting point, not a finished design.

E. *Limits of the argument*

The comparison is between texts, not between outcomes. I have not shown that CDM 2015 has produced safer sites; whether it has is a separate empirical question. Nor have I shown that Indian designers currently do nothing about safety, since practice may be ahead of the law. And because I could not read all the rules, some of what I describe as missing may exist in a part I did not see.

VIII. CONCLUSION

Section 9 of the OSH Code carries forward a designer's duty that is easy to state and difficult to apply. Next to the

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UK's CDM 2015, its gap is not in the words of the duty, which are demanding, but in the machinery around it: a record, a recipient, a coordinator, a link to the client and a clear route to enforcement. The practical conclusion is that India does not need a harsher Section 9. It needs the few supporting instruments that turn consideration into evidence. Those can plausibly be introduced through rules, standards and professional guidance. The open points that need a lawyer's reading, chiefly the penalty route for a designer, are the first things for a follow-up study to settle.

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[13] [INSERT: Building and Other Construction Workers Central Rules, 1998, designer rule; further references]

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