

Changes to the Building Regulations 2010 (as amended 2023) as a result of the Building Safety Act 2022

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Overview

From 1 October 2023 significant new updates to the Building Regulations legislation have come into effect, which introduce changes to the Building Regulations application process, and impose dutyholder responsibilities on applicants, agents, and builders.

The key changes are: -

The introduction of a new Building Control regime for Higher Risk Buildings (HRBs). Building Regulations applications for building, extending or altering residential buildings, including care homes and hospitals over 18m or 7 storeys high, must now be made directly to the Building Safety Regulator (BSR) and can no longer be submitted to local authority or private sector building control.

New duty holder roles and responsibilities are specified in the regulations for individuals involved in procuring, planning, designing, managing, and executing building projects. The goal is to place a stronger emphasis on complying with regulations for both design and construction work.

- the applicant is now referred to as the 'Client, this includes Domestic Clients
- an agent is now referred to as the 'Principal Designer'
- a builder is now referred to as the 'Principal Contractor'

Emphasis on Competence – having 'appropriate skills, knowledge and behaviours'.

- Persons undertaking design, construction and refurbishment work must be competent for their role.
- Organisations must have appropriate capability - management policies, procedures, systems and resources – to fulfil their roles
- Anyone who appoints a person or organisation has a legal duty to ensure they are competent.

The overall responsibility to show compliance with the Building Regulations lies with the Client, the Principal Designer, and the Principal Contractor.

Overview

Other notable changes that will affect your projects are: -

Changes to submitting an application – Additional information is required to enable your application to be validated, including contact details for dutyholders and information about the project.

A new definition of ‘commencement’ of work for existing and new buildings -

For new buildings and extensions this would usually be the date at which the foundations and ground floor structure is complete, or for other works a date and description of a point where 15% of the work is due to be complete,

Notification of starting work and commencement – You must notify building control when you start work on-site so we can carry out the necessary inspections. You must also notify HBC when works are ‘deemed commenced’ – for buildings and extensions this is when the foundations are constructed, and the structure of the lowest floor level is complete. For all other works, where 15% of the overall work has been constructed.

Notice of completion - A notice of completion must be submitted to us within 5 days of the work being completed. A template for this notice will be provided once your application is registered.

An automatic lapse of building control approval – for projects that do not meet the definition of commencement within three years from when the building control approval was granted,

Changes to enforcement for all buildings - The Building Safety Act 2022 strengthens enforcement of building regulation breaches and enables local authorities and the Building Safety Regulator to issue compliance and stop notices where building regulations have been breached. Compliance notices will require specified remedial action by a set date.

These changes apply to all building projects covered by the Building Regulations 2010, not just higher-risk buildings (HRBs).

Introducing Dutyholders

The new dutyholders introduced under the Building Regulations etc. (Amendment) (England) Regulations 2023 are: -

The Client

a person for whom the project is carried out

Domestic clients

a person for whom the project is carried out but not for the furtherance of a client's business

The Principal Designer (PD)

usually the lead designer

The Principal Contractor (PC)

usually the lead contractor

There are also new duties placed on Designers (including sole or lead designers) and Contractors (including sole contractors).

These roles are effective from 1 October 2023,

The aim is to ensure that at each stage in a building project, dutyholders are identified, and the roles, responsibilities and expectations are clear.

Dutyholders must ensure they possess the necessary skills, knowledge, experience, and behaviour to carry out their design and construction work. They must also stay within the limits of their competence.

Additionally, the Client must take reasonable steps to confirm that the dutyholders they appoint are competent, and dutyholders themselves must decline appointments for work they aren't competent to handle.

Dutyholders are required to collaborate with other dutyholders, coordinate their work, and share information with each other.

It is possible for a dutyholder to hold more than one duty-holding role, as long as they are competent to do so.

The Client

Definitions

Client means any person for whom a project is carried out

Project means a project which includes or is intended to include any building work and includes all planning work, design work, management or other work involved in a project until the end of the construction phase.

The Client's duties cannot be subcontracted to a third party. Where there is more than one client, one person must be named as the Client for the project,

The Client MUST: -

- Ensure they make suitable arrangements for planning, managing and monitoring the project to ensure it complies with the Building Regulations, during design, construction and for the lifetime of the project.
- Ensure they appoint a competent Principal Designer and Principal Contractor for the work and sign a declaration that they have done so.
- *HBC will require the names, phone numbers, addresses, and email addresses of the Principal Designer and The Principal Contractor. (Provision for this is on the application form.)*
- Advise Building Control of the start date of the work, and date and description of 'commencement'. This information is required at the application stage.
- Give notice to HBC if there is a change of client after a building control approval application is made or a building notice is given.
- The Client has overall control over the project and, therefore, they are ultimately responsible for the provision of information to others involved in the project. For HRBs this is known as The Golden Thread - both the information that allows you to understand a building and the steps needed to keep both the building and people safe, now and in the future - but it is important to keep an information trail for all building work.
- If any of the designers or contractors change, then there should be a handover of information. The new person in charge then notifies the relevant authority, explaining that they're doing work on behalf of the domestic client. Whilst the client can ask others to do certain tasks, they can't pass on the overall responsibility, and they have to make sure the people they choose are qualified for the job.

The Domestic Client

Definitions

Domestic Client means a client for whom a project is being carried out which is not in the course or furtherance of a business of that client

- When it comes to home projects, the client usually won't have enough expertise to handle all of the key Client responsibilities. So, most of the duties related to the project's safety and compliance will fall on those doing the design and construction work.
- Where there is more than one person working on different aspects of the project, a Domestic Client should appoint a Principal Designer to be in control of design work and a Principal Contractor to be in control of the building work.
- If a Domestic Client does not appoint either a Principal Designer or Principal Contractor, then the designer in control of the design phase of the project is the Principal Designer and the contractor in control of the construction phase of the project is the Principal Contractor.
- On minor projects, where there is no designer, the Principal Contractor may take the role of both PD & PC
- The Domestic Client must provide building information that they have, or it would be reasonable for them to obtain, to the designers and contractors working on the project.
- They must cooperate with anyone working on or in relation to the project to the extent necessary to enable them to comply with their duties or functions.

The Principal Designer

Definition

Principal Designer is a designer who is an organisation or individual (on smaller projects) appointed by the client to take control of the pre-construction phase of any project involving more than one contractor.

A principal designer must be appointed in writing before the construction phase begins, or for building control approval for a higher-risk building, before submitting an application.

You must:

- Plan, manage and monitor the design work during the design phase.
- Take all reasonable steps to ensure the design work carried out by them and anyone under their control is planned, managed and monitored so that the design is such that, if built, it would comply with all relevant requirements of the Building Regulations.
- Ensure that they, and all those working on the project, cooperate, communicate and co-ordinate their work with the client, the Principal Contractor, and other designers and contractors.
- Liaise with the Principal Contractor and share information relevant to the building work.
- Assist the Client in providing information to designers.
- Review the arrangements of any previous Principal Designer.
- Notify Building Control in writing, where applicable, that the work is being carried out on behalf of a Domestic Client.
- Where applicable, sign the declarations as referred to above in the Client's duties when work is complete.

The Designer

Definition

Designer means any person...who in the course of a business -

(a) carries out any design work, or

(b) arranges for, or instructs, any person under their control to do so; (including a client, contractor or other person referred to in Part 2A of the Regulations)

You must:

- Plan, manage and monitor design work so that if the building work were carried out, it would comply with the Building Regulations.
- Co-operate with the Client, designers, and contractors to the extent that if the building work were carried out, it would comply with the Building Regulations.
- Not start any design work unless you are satisfied that the Client is aware of the duties owed by the Client.
- Carry out design to ensure that if building work were carried out, the design it would comply with the Building Regulations.
- Provide sufficient information about the building's design, construction and maintenance to allow the Client, other designers and contractors to comply with the Building Regulations.
- Consider any other design work and report any compliance concerns relating to the design compliance to the Principal Designers and Client.
- Must advise the Principal Designer or the Client whether any work they are designing is Higher-Risk building work

The Principal Contractor

Definition

Principal Contractor is usually the main contractor and is appointed under Regulation 11D (principal designer and principal contractor) to perform the duties of a Principal Contractor where there is more than one contractor.

You must:

- Plan, Manage and Monitor the building work during the construction phase.
- Co-ordinate matters relating to building work to ensure the building work complies with the Building Regulations.
- Ensure cooperation amongst all Dutyholders.
- Ensure all building work is coordinated so that it complies with the Building Regulations.
- Ensure contractors comply with their duties.
- Liaise with the Principal Designer as required.
- Have regard to comments from the Principal Designer concerning compliance with the Building Regulations.
- Assist the Client in providing information to contractors.
- Review the arrangements of any previous Principal Contractor.
- Notify Building Control in writing, where applicable, that the work is being carried out on behalf of a Domestic Client.
- Sign the declarations as referred to above in the Client's duties when work is complete.

The Contractor

Definition

The Contractor any person including a client, but not a domestic client, who carries out, manages or controls any building work

You must:

- Plan, manage and monitor design work so that if the building work were carried out, it would comply with the Building Regulations.
- Co-operate with the Client, designers, and contractors to the extent that if the building work were carried out, it would comply with the Building Regulations.
- Not start any design work unless you are satisfied that the Client is aware of the duties owed by the Client.
- Carry out design to ensure that if building work were carried out, the design it would comply with the Building Regulations.
- Provide sufficient information about the building's design, construction and maintenance to allow the Client, other designers and contractors to comply with the Building Regulations.
- Consider any other design work and report any compliance concerns relating to the design compliance to the Principal Designers and Client.
- Must advise the Principal Designer or the Client whether any work they are designing is Higher-Risk building work.

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