

# **BUILDING REGULATIONS LEGISLATION UPDATES**

**OCTOBER 2023**



## Background

The below changes are part of the Government's response to recommendations made following the Grenfell tragedy. The changes will place greater responsibility for Building Regulations compliance on construction professionals and 'Dutyholders'.

## Changes

- Registered Building Control Approvers
- Dutyholders
- Transitional timeframes
- Higher-Risk Buildings
- Commencement
- Compliance declarations
- Regulation 38 timeframes
- Links to legislation

### Registered Building Control Approvers (RBCAs)

The Building Safety Regulator (BSR) will independently oversee building control bodies and their professionals.

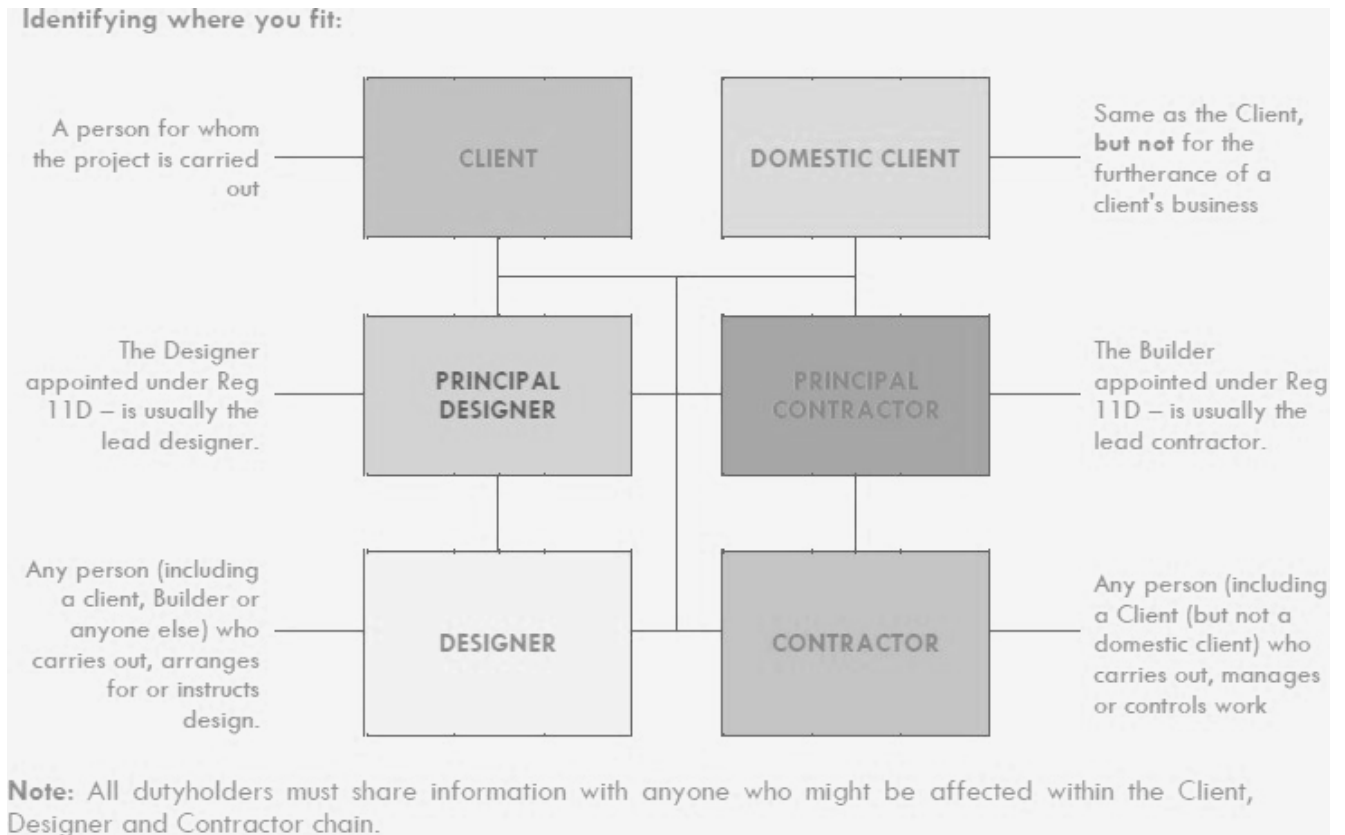
The oversight will apply to Local Authorities and Registered Building Control Approvers (RBCAs) currently known as Approved Inspectors (AIs). Approved Inspectors will be known as AIs until their registration with the BSR is complete. The deadline for this is the 6<sup>th</sup> of April 2024.

The BSR will oversee both the performance of building control bodies and the competence of professionals within the building control bodies.

### Greater responsibility for clients, contractors, and designers/architects

Part 2A of The Building Regulations etc. (Amendment) (England) Regulations 2023 introduces dutyholders and competence.

The following table will help you to identify the various types of dutyholders and their roles.



An overview of each of the responsibilities of these dutyholders follows:

### Client

(Client means any person for whom a project is carried out)

You must:

**Ensure suitable arrangements exist to plan, manage and monitor the building work to ensure compliance with the Building Regulations.**

**Ensure that these arrangements are maintained throughout the life of the project.**

Take all reasonable steps to ensure any designers or contractors appointed are competent to carry out the work for which they are appointed.

Notify the Approved Inspector (later to become Registered Building Control Approver – RBCA) when you appoint Principal Designer and Principal Contractors, even if they are sole designers or contractors. Including:

- Name, address, telephone number and email of these parties.
- Details of any change in the dutyholders and the dates of their appointment.
- A signed statement of authority that the information is, to the best of your knowledge, correct.

Let the Approved Inspector know when the building work is “commenced” (this does not simply mean “started”). See notes below on **what is deemed commencement**.

**When the work is complete**, you must provide notification to the Approved Inspector, which contains the following information:

- The Client's name, address, telephone number and email address.
- The Principal Designer's and Principal Contractor's names, addresses, telephone numbers and email addresses.
- A statement that the building work is complete.
- A signed statement that, to the best of your knowledge, the building work complies with the building regulations.
- A signed statement from each Principal Designer and Principal Contractor that they have fulfilled their duties under the building regulations.

### Domestic Client

(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)

Where the client is a **domestic** client, responsibility for compliance falls on the Principal Contractor or contractor, who must:

**Ensure suitable arrangements exist to plan, manage and monitor the building work to ensure compliance with the Building Regulations, including a compliant design, compliant work and co-operation between designers and contractors.**

**Ensure that these arrangements are maintained throughout the life of the project.**

Unless:

The Client and the Principal Designer agree in writing that the Principal Designer will fulfil those duties.

**When the work is complete**, you must provide notification to the Approved Inspector, which contains the following information:

- The Client's name, address, telephone number and email address.
- The Principal Designer's and Principal Contractor's names, addresses, telephone numbers and email addresses.
- A statement that the building work is complete.
- A signed statement that, to the best of your knowledge, the building work complies with the building regulations.
- A signed statement from each Principal Designer and Principal Contractor that they have fulfilled their duties under the building regulations.

### Designers

(anyone (including the client, contractor or anyone else) who during their business carries out design work or arranges for or instructs anyone under their control to do so )

You must:

Plan, manage and monitor design work so that if the building work were carried out, it would comply with the Building Regulations.

Cooperate 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.

Advise the Principal Designer or the Client whether any work they are designing is Higher-Risk building work.

### Principal Designers

(usually, the lead designer and is appointed under Regulation 11D to perform the duties of a Principal Designer)

You must:

Perform all the functions listed within the Designer's role mentioned below and,  
**In addition, you must:**

Plan, Manage and Monitor the design work during the design phase.

Coordinate all matters relating to design work to ensure that it will comply with the Building Regulations if building work is carried out.

Ensure dutyholder cooperation.

Ensure all designers coordinate their designs so that building work will be carried out following the designs and will comply with the Building Regulations.

Ensure all designers comply with their duties.

Liaise with the Principal Contractor.

Have regard to comments from the Principal Contractor about compliance with the Building Regulations.

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.**

### Contractor

(is any person (including the Client, but not a domestic client) who, in the course of a business, carries out, manages or controls any building work)

You must:

Before starting building work, check that the client is aware of the duties owed by the client under all relevant circumstances.

Ensure the building work you carry out is in compliance with all relevant requirements.

Provide each worker under their control with appropriate supervision, information and instruction to ensure the building work complies with the Building Regulations.

Provide sufficient information about the work to allow the Client, other designers and contractors to comply with the Building Regulations.

Consider other building works which affects your work (when you are only carrying out part of the building work) and report any concerns relating to compliance to the Principal Contractor.

(If requested) provide advice to the Principal Contractor or the Client on whether any work is Higher-Risk building work.

### 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 co-operation 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**.

### Transitional timeframes



*Projects under the new legislation:*

*Projects where the Initial Notice is registered and accepted by the local authority on or after the 1<sup>st</sup> of October 2023*

*Existing projects transitional time period:*

*Projects where the Initial Notice is registered and accepted by the local authority before the 1<sup>st</sup> of October 2023 will remain on the existing legal framework if works are regarded as 'commenced' before the 6<sup>th</sup> of April 2024.*

*See guidance below for what is regarded as 'commenced'*

### Higher-Risk Buildings (HRBs)

When creating a new HRB or undertaking alterations which require a Building Regulations application to an existing registered HRB the project will now be overseen by the Building Safety Regulator (BSR) instead of independent Registered Building Control Approvers. You will need to contact and register the work with the BSR.

#### *Higher-Risk buildings have been defined as:*

Buildings with 7 or more storeys or that are 18 metres or higher (above ground level) and either;

- a) contain two or more residential units.
- b) are a hospital or care home.



### Commencement

#### 1. The Person carrying out the works (PCOW, this could be the client, contractor, or designer) must provide the following notices to Building Control:

- Notice of Intention to 'start work'- The PCOW must Inform (provide notice) Building Control in writing or over the phone **at least** two days before the day on which building work 'starts' the intention to start and the date work is to start (*Please note unless specifically requested this is not a formal request for a site inspection*).
- Notice works are 'commenced': The PCOW must inform (provide notice) to Building Control in writing or over the phone that they regard the works to be 'commenced' **not more than five days after** the day on which work is regarded as 'commenced'.

To clarify the above, we would like you to interpret the words 'start' and 'commenced' in the following manner:

**'Start'**: To begin the building works e.g., spade in the ground, removal of an existing wall.

**'Commenced'**: Completion of the initial works e.g., floor structure complete, the inserting of a steel beam is complete. In other words, the work is well and truly underway.

For the purposes of "commencement", there are three categories:

- Construction of new 'Complex' buildings
- Construction of new 'non-complex' buildings and horizontal extensions
- All other building works

A complex building is one which:

- a) Is built over another existing building  
or
- b) Contains two or more basement levels  
or
- c) Is a public building or contains a public element with capacity for 100 or more visitors.

In this category "commenced" is defined as completion of "the foundations supporting the building and the structure of the lowest floor level of that building".



Construction of new ‘non-complex’ buildings and horizontal extensions

This category will include most buildings and extensions built from the ground up or containing only one basement level.

In this category “commenced” is defined as completion of all foundations, basement levels and ground floor structure.

All other building works

This is the “catch all” and includes any job that does not fall into either of the categories above.

In this category “commenced” is defined as the completion of the “initial stage” and this must be worked out for each project as 15% of the total works.

The following table contains examples of typical projects and what we consider to be the 15%. If your project is more in-depth Building Control will inform you during the quote/application process what stage of the building work they consider to be regarded as “commenced” and ask for you to confirm you agree.

For projects in the “all other building works” category the 15% will be detailed on the Initial Notice served on the local authority.

<b>Domestic</b>		
Loft Conversion	When the floor structure is complete	Likely 1 <sup>st</sup> inspection
Garage conversion to habitable accommodation	When the floor is complete (all floor types) or build up/construction of infill and front foundation as applicable	Likely 1 <sup>st</sup> or 2 <sup>nd</sup> inspection
Conversion of outbuilding to habitable accommodation	When the floor is complete (all floor types) or build up/construction of infill and front foundation as applicable	Likely 1 <sup>st</sup> inspection

Basement conversion	When the floor and walls are complete	Likely 2 <sup>nd</sup> inspection
First floor extension	When all structural works are complete	Likely 1 <sup>st</sup> inspection
All material changes of use	When all structural works are complete and any new partitioning is in place	Likely 1 <sup>st</sup> or 2 <sup>nd</sup> inspection
New sewage treatment plant	When the tank is in position with lean mix concrete in.	Likely 1 <sup>st</sup> inspection
Structural alterations e.g., wall removal, chimney breast removal, roof replacement, structural roof alterations.	When the beam/supports are installed but not covered.	Likely 1 <sup>st</sup> inspection
Installation of new WC or en-suite bathroom	When all the below ground and above ground drainage is completed.	Likely 1 <sup>st</sup> inspection
New underpin	When 15% of the bays have been inspected and poured e.g., 10 bays require at least 2 bays to be completed.	Likely to be 2 <sup>nd</sup> inspection
Thermal element works to existing roofs, walls and floors. e.g. re-rendering, replacing roof coverings, re-laying a floor.	When the original surface /covering has been removed.	Likely 1 <sup>st</sup> inspection
Replacement windows and doors.	When installation is complete or if multiple windows/doors then 15% of the installation e.g., if 10 windows are being installed, we would regard 2 as commenced	Likely 1 <sup>st</sup> inspection

<u>Non-domestic</u>		
Refit of a café, restaurant, shop etc.	When all structural works are complete and any new partitioning is in place.	Likely 1 <sup>st</sup> inspection
Installation of a mezzanine to warehouse.	When the mezzanine structural members are in place.	Likely 2 <sup>nd</sup> inspection

Material changes of use	When all structural works are complete and any new partitioning is in place	Likely 1 <sup>st</sup> or 2 <sup>nd</sup> inspection
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### New regulation 38 timeframes

The person carrying out the work is required to give the fire safety information to the responsible person no later than-

- the date of completion of the work to which the initial notice relates, or
- the date of occupation of the building or extension, or
- the date on which, in accordance with Regulation 17(5) of The Building (Approved Inspectors etc.) Regulations 2010, the initial notice ceases to be in force, **whichever is the earlier**

The responsible person must then confirm receipt of all the fire safety information.

You should note that Building Control cannot issue a Final Certificate without receiving the required information, as the Final Certificate process **now** requires us to declare that we have received notification.

### Compliance declarations are required at the end of the project from:

- The Client
- Principal designer/architect (if appointed)
- Principal contractor (if appointed)

Regulation 16E requires Building Control to obtain from the client a statement, signed by the client, that the building work is complete and: ***“confirming that to the best of the client’s knowledge the work complies with all applicable requirements of the building regulations.”***

Signed declarations are also required from principal contractors and principal designers, together with full contact details, that each fulfilled their duties under the regulations.

Whilst these signed declarations are required for all projects, and a domestic client might ask: “how would I know?”, it is important to remember that, for domestic clients, the overriding responsibility for making arrangements for “planning, managing and monitoring a project ... so as to ensure compliance with all the relevant requirements” falls on the contractor.

We will send you the relevant paperwork to sign and will aim to assist in obtaining the compliance declarations but ultimately the responsibility for completion and submission of these documents rests with the client.

**For further information on the above changes please visit the following links:**

Link to The Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023 -

<https://www.legislation.gov.uk/uksi/2023/906/contents/made>

Link to The Building Act 1984-

<https://www.legislation.gov.uk/ukpga/1984/55/contents>

Link to The Building (Approved Inspectors etc) Regulations 2010 -

<https://www.legislation.gov.uk/uksi/2010/2215/contents>

Link to The Building Regulations 2010-

<https://www.legislation.gov.uk/uksi/2010/2214/contents>

Link to The Building Safety Act 2022 –

<https://www.legislation.gov.uk/ukpga/2022/30/contents>