

The Duty-Holder Regime – Part 2a of the Building Regulations 2010

The Building Regulations (2010) set standards that aim to protect the safety, health and welfare of people in and about buildings.

This article focuses upon the introduction of Part 2a of the Building Regulations 2010 (BR 2010) – which is relating to Duty-Holder and Competence. This amendment, applicable from the 1st of October 2023, incorporates minimum standards of competence and duties for those involved in building work.

The genesis of Part 2a of the Building Regulations, lies in the Grenfell Tower disaster in 2017, which sadly resulted in the loss of 72 lives. Following the catastrophe, Dame Judith Hackitts report ‘Building a Safer Future’, emphasised the need for improved clarity on roles and responsibilities. The Building Safety Act (2022), specifically Section 34 & 35, has enabled the introduction of Part 2a of the Building Regulations.

It is beyond the scope of this article to list and detail the entirety of the contents of Part 2a. instead a focus on Domestic Clients is likely to be the most beneficial.

Part 2a has introduced various duty-holder designations; principal designers (PD), principal contractors (PC), clients and domestic clients (Regulation 2 / 11D Building Regulations 2010). It's crucial to note that these roles are unrelated to those outlined under the CDM Regulations, despite matching terminology.

Regulation 11C (BR 2010) is applicable for domestic clients (DC). A 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*’ (Regulation 2 – BR 2010). This varies from that of a ‘Client’ (also defined in Regulation 2).

The duties of PD / PC in ‘Domestic Client’ projects vary significantly in comparison to a ‘Client’. For example - the overarching requirement to make ‘*suitable arrangements to ensure compliance*’ (Regulation 11A(1)), must be carried out by the contractor (if only one) or PC or PD (if agreed in writing) (Regulation 11C(1)(b)).

Regulation 11C(2) also specifically outlines the circumstance when a domestic client fails to make the appointments of PD / PC - *(a)the designer in control of the design phase of the project is the principal designer; (b)the contractor in control of the construction phase of the project is the principal contractor.*

As such – if you are in ‘control’ of these phases (design / construction) – you are acting as PD / PC by *default*. Which includes the obligations of ‘Competence’ (Regulations 11F-11I) and ‘Duties of Dutyholders’ (Regulations 11J – 11O).

Moreover - to confirm your adherence to these requirements, as PD / PC you will be requested to issue ‘Compliance Declarations’ to your relevant Building Control Body – to confirm that you have ‘*fulfilled their duties as a principal contractor / principal designer under Part 2A dutyholders and competence) of the 2010 Regulations*’ (Regulation 18 - Top of Form

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The Building (Registered Building Control Approvers etc.) (England) Regulations 2024 / Regulation 16 – The Building Regulations 2010).

Anecdotal evidence from Registered Building Inspectors (RBIs) is that stakeholders within the Built environment are beginning to grasp these requirements and their implications. However, concerns persist that it is those who are unwilling to engage, remain unaware of their legal responsibilities.

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