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STATUTORY INSTRUMENTS

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**2010 No. 2214**

**The Building Regulations 2010**

[<sup>F1</sup>PART 2A

Dutyholders and competence

**Textual Amendments**

- F1** Pt. 2A inserted (E.) (1.10.2023) by [The Building Regulations etc. \(Amendment\) \(England\) Regulations 2023 \(S.I. 2023/911\)](#), regs. 1(2), **6(1)** (with regs. 22-24)

CHAPTER 1

Client

**Suitable arrangements to ensure compliance with requirements etc**

**11A.**—(1) A client must make suitable arrangements for planning, managing and monitoring a project (including allocation of sufficient time and other resources) so as to ensure compliance with all relevant requirements.

(2) Arrangements under paragraph (1) are suitable if—

- (a) they ensure that the design work is carried out so that the building work to which the design relates, if built, would be in compliance with all relevant requirements;
- (b) they ensure the building work is carried out in accordance with all relevant requirements;
- (c) they enable the designers and contractors to cooperate with each other to ensure compliance with all relevant requirements; and
- (d) they provide for periodic review of the building work (and the design work) included or to be included in the project so as to identify whether it is higher-risk building work.

(3) A client must ensure that the arrangements under paragraph (1) are maintained and reviewed throughout the project.

(4) A client must provide building information as soon as is practicable to every designer and contractor on the project.

(5) A client must cooperate with any other person working on or in relation to a project to the extent necessary to enable any person with a duty or function under these Regulations to fulfil that duty or function.

(6) Where there is more than one client in relation to a project—

- (a) the clients may agree in writing which of them is to be treated for the purposes of these Regulations as the client;
- (b) except for the duties specified in sub-paragraph (c), only the person who agreed to be treated as the client under sub-paragraph (a) is subject to the duties owed by a client under these Regulations;

- (c) the duties in the following provisions are owed by all clients—
- (i) paragraph (4) to the extent that those duties relate to information in the possession of the client or which is reasonably obtainable by or on behalf of the client;
  - (ii) paragraph (5); and
  - (iii) regulation 11B (arrangements as to information: higher-risk building work).

### **Arrangements as to information: higher-risk building work**

**11B.**—(1) A client must make suitable arrangements to ensure information is provided to the designers and contractors working on a project which includes any higher-risk building work to make them aware that the project includes higher-risk building work and the nature of the higher-risk building work.

(2) Paragraph (1) includes a duty to periodically review the building work (and the design work) included or to be included in the project so as to identify whether it is higher-risk building work and to ensure information is provided under paragraph (1) where the work becomes higher-risk building work.

### **Domestic clients**

**11C.**—(1) Where the client is a domestic client the duties in regulations 11A(1) to (3) and 11E(2) to (5) must be carried out by—

- (a) where there is only one contractor for a project, the contractor;
- (b) where there is more than one contractor for a project—
  - (i) the principal contractor; or
  - (ii) the principal designer where the client and the principal designer agree in writing the principal designer is to fulfil those duties.

(2) If a domestic client fails to make the appointments required by regulation 11D (principal designer and principal contractor)—

- (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.

(3) Regulation 11D(5) does not apply to a domestic client.

## **CHAPTER 2**

### *Appointment of principal designer and principal contractor etc*

### **Principal designer and principal contractor**

**11D.**—(1) Where there is more than one contractor, or it is reasonably foreseeable that more than one contractor will be working on a project, the client must appoint in writing—

- (a) a designer with control over the design work as the principal designer for the purposes of these Regulations, and
- (b) a contractor with control over the building work as the principal contractor for the purposes of these Regulations.

(2) A client is treated as complying with the requirement in paragraph (1) if, instead of appointing a person for the purposes of these Regulations, they certify, in writing, that the person who is the CDM principal designer, or, as the case may be, the CDM principal contractor, is treated as appointed

as the principal designer or, as the case may be, the principal contractor, for the purposes of these Regulations.

- (3) The appointments under this regulation must be made—
- (a) in relation to a project which includes higher-risk building work for which an application for building control approval must be submitted to the regulator, before that application is submitted;
  - (b) in relation to any other project, before the construction phase begins.

(4) Where the appointment of a principal designer or the principal contractor ends before the end of the project, as soon as reasonably practicable the client must appoint a new principal designer or new principal contractor, as the case may be, under this regulation.

(5) Where the client fails to appoint a principal designer (or a replacement principal designer) or, as the case may be, a principal contractor (or a replacement principal contractor), the client must fulfil the duties of the principal designer or the principal contractor, as the case may be, under these Regulations until they appoint another person to that role.

(6) Where there is only one contractor working on a project that contractor is to be treated as appointed as the principal contractor and must fulfil the duties of the principal contractor set out in these Regulations.

- (7) Where paragraph (6) applies and—
- (a) there is only one designer, or it is reasonably foreseeable that there will be only one designer working on a project, that designer must fulfil the duties of the principal designer set out in these Regulations; or
  - (b) there is more than one designer or it is reasonably foreseeable that there will be more than one designer working on a project at any time—
    - (i) the designers must agree in writing which designer is to fulfil the duties of the principal designer set out in these Regulations (“the lead designer”);
    - (ii) the lead designer must give a copy of the agreement to the client.

(8) In relation to higher-risk building work, on appointing a principal designer, for each appointment the client must keep a record, in writing, of the steps it took under paragraph (2) to (4) of regulation 11E (considerations before a person carries out work).

(9) In relation to higher-risk building work, on appointing a principal contractor, for each appointment the client must keep a record, in writing, of the steps it took under paragraphs (2), (3) and (5) of regulation 11E (considerations before a person carries out work).

(10) In relation to higher-risk building work, on appointing any other person, the person making the appointment must give to the client (and the client must keep) a record, in writing, of the steps the person making the appointment took under regulation 11E(2) (considerations before a person carries out work).

### **Considerations before a person carries out work**

**11E.—**(1) This regulation applies where a person (P) is proposing to use any person (A) to carry out any building work or design work.

- (2) Before permitting A to carry out any work—
- (a) P must take all reasonable steps to satisfy themselves that A—
    - (i) fulfils the requirements in regulation 11F(1) and (2) (competence: general requirement), or
    - (ii) is an individual who is in training to fulfil the requirements in regulation 11F(1) and (2) and arrangements have been put in place to supervise A, and

- (b) where the work relates to a higher-risk building, P must—
- (i) ask A whether a serious sanction has occurred, in relation to them, within the 5 years ending on the date of the appointment; and
  - (ii) consider any information available to P relating to any misconduct of A (including any serious sanction).

(3) Before permitting A to undertake any work, P must additionally take all reasonable steps to satisfy themselves that A is able to fulfil the duties of regulation 11J (general duty to plan, manage and monitor).

(4) Where A is to be appointed as the principal designer, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11G(1) (competence: principal designer) in relation to the design work.

(5) Where A is to be appointed as the principal contractor, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11H(1) (competence: principal contractor) in relation to the building work.

(6) Any request to undertake any building work or any design work must not be accepted by A if A does not satisfy the requirements in regulation 11F(1) and (2) (competence: general requirement) at the time of the appointment (except where those requirements do not apply to A by virtue of regulation 11F(3)).

(7) A must not act—

- (a) as the principal designer in relation to any design work if A does not satisfy the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11G(1) (competence: principal designer) at the time of the appointment as the principal designer;
- (b) as the principal contractor in relation to any building work if A does not satisfy the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11H(1) (competence: principal contractor) at the time of the appointment as the principal contractor.

(8) In this regulation “serious sanction” means—

- (a) the issue to A of a compliance notice which referred to contravention or likely contravention of a requirement of Part A (structure) or Part B (fire safety) of Schedule 1;
- (b) the issue to A of a stop notice;
- (c) the conviction of A for any offence under—
  - (i) the Act;
  - (ii) the Health and Safety at Work etc. Act 1974;
  - (iii) the Building Safety Act 2022;
  - (iv) the Regulatory Reform (Fire Safety) Order 2005;
- (d) a report published by an inquiry under the Inquiries Act 2005 finds that A’s action or inaction resulted in one or more deaths or was likely to have been a contravention of any requirement of—
  - (i) the Act;
  - (ii) Part A (structure) or Part B (fire safety) of Schedule 1;
  - (iii) the Health and Safety at Work etc. Act 1974;
  - (iv) the Building Safety Act 2022;
  - (v) the Regulatory Reform (Fire Safety) Order 2005.

## CHAPTER 3

### *Competence*

#### **Competence: general requirement**

**11F.**—(1) Any person carrying out any building work or any design work must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to carry out—

- (i) the building work in accordance with all relevant requirements;
- (ii) the design work so that the building work to which the design relates, if built, would be in accordance with all relevant requirements.

(2) Any person carrying out any building work as a contractor or any design work as a designer must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to fulfil the duties of a contractor or designer, as the case may be, under these Regulations in relation to the work.

(3) The requirements in paragraphs (1) and (2) do not apply to an individual (T) who is in training to fulfil those requirements.

(4) The person who asked T to carry out any building work or, as the case may be, any design work must ensure T is adequately supervised when carrying out the work.

(5) A person who is in training to fulfil the requirements of a principal contractor or a principal designer may not be appointed as a principal contractor or a principal designer.

#### **Competence: principal designer**

**11G.**—(1) A principal designer must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to fulfil the duties of a principal designer under these Regulations in relation to the design work included in the project.

(2) Where the principal designer (D) is not an individual, D must designate an individual who has the task of managing its functions as the principal designer.

(3) Before making the designation under paragraph (2), D must take all reasonable steps to satisfy themselves that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal designer on behalf of D in such a way as to ensure D fulfils the duties of the principal designer under these Regulations in relation to the design work included in the project.

#### **Competence: principal contractor**

**11H.**—(1) A principal contractor must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to fulfil the duties of a principal contractor under these Regulations in relation to the building work included in the project.

(2) Where the principal contractor (C) is not an individual, C must designate an individual under C's control who has the task of managing its functions as the principal contractor.

(3) Before making the designation under paragraph (2), C must take all reasonable steps to satisfy themselves that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal contractor on behalf of C in such a way as to ensure C fulfils the duties of the principal contractor under these Regulations in relation to the building work included in the project.

### **Ceasing to be competent: notification**

**11I.**—(1) Where at any time a person (A) ceases to satisfy the requirements in regulation 11F(1), 11F(2), 11G(1) or, as the case may be, 11H(1) in relation to any building work or any design work, A must—

- (a) in a case where A is the principal designer or the principal contractor, notify the client;
- (b) in a case where there is more than one contractor and A is a designer, notify the person who asked them to carry out the design work and the principal designer;
- (c) in a case where there is more than one contractor and A is a contractor, notify the person who asked them to carry out the building work and the principal contractor;
- (d) in any other case, notify the person who asked them to carry out the work.

(2) If at the time of the notification under paragraph (1)(b) there is no principal designer appointed, that paragraph has effect as if the reference to the principal designer were a reference to the client.

(3) If at the time of the notification under paragraph (1)(c) there is no principal contractor appointed, that paragraph has effect as if the reference to the principal contractor were a reference to the client.

## **CHAPTER 4**

### *Duties of dutyholders*

#### **General duty**

**11J.**—(1) Any person carrying out any building work must ensure the work carried out by them (and by any workers under their control) is planned, managed and monitored so as to be in compliance with all relevant requirements.

(2) Any person carrying out any design work must take all reasonable steps to ensure the design work carried out by them (and by any workers under their control) is planned, managed and monitored so that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

(3) Any person carrying out any building work must cooperate with the client, designers and contractors (including the principal designer and principal contractor, if any) to the extent necessary to ensure that the work is in compliance with all relevant requirements.

(4) Any person carrying out any design work must cooperate with the client, designers and contractors (including the principal designer and principal contractor, if any) to the extent necessary to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

#### **Additional duties of designers**

**11K.—(1)** A designer must not start design work unless satisfied that the client is aware of the duties owed by the client for the building work to which the design relates under all relevant requirements.

(2) When carrying out design work the designer must take all reasonable steps to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

(3) In providing a design, a designer must take all reasonable steps to provide sufficient information about the design, construction and maintenance of the building to assist the client, other designers and contractors to comply with all relevant requirements.

(4) Where a designer is carrying out only part of the design of the building work which comprises a project, the designer must consider other design work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the principal designer.

(5) If requested to do so, a designer must provide advice to the principal designer or the client on whether any work, to which a design they are preparing or modifying relates, is higher-risk building work.

#### **Additional duties of contractors**

**11L.—(1)** A contractor must not start any building work unless satisfied that the client is aware of the duties owed by the client under all relevant requirements.

(2) A contractor must—

- (a) ensure the building work they carry out is in compliance with all relevant requirements; and
- (b) provide each worker under their control with appropriate supervision, instructions and information so as to ensure that the building work is in compliance with all relevant requirements.

(3) In relation to building work, a contractor must take all reasonable steps to provide sufficient information about the work to assist the client, other contractors and designers to comply with all relevant requirements.

(4) Where a contractor is carrying out only part of the building work which comprises a project, the contractor must consider other work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the principal contractor.

(5) If requested to do so, a contractor must provide advice to the principal contractor or the client on whether any work is higher-risk building work.

#### **Additional duties of a principal designer**

**11M.—(1)** The principal designer must—

- (a) plan, manage and monitor the design work during the design phase; and
- (b) coordinate matters relating to the design work comprised in the project so that all reasonable steps are taken to ensure that the design is such that if the building work to

which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

- (2) The principal designer must take all reasonable steps to ensure that—
  - (a) designers, and any other person involved in relation to design work, cooperate with the client, the principal designer, the principal contractor and each other;
  - (b) the design work of all designers is coordinated so that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements; and
  - (c) designers, and any other person involved in relation to design work, comply with the duties under these Regulations.
- (3) The principal designer must liaise with the principal contractor and share with the principal contractor any information relevant to—
  - (a) the planning, management and monitoring of the building work, and
  - (b) the coordination of building work and design work for the purpose of ensuring compliance with all relevant requirements.
- (4) Where the principal contractor provides comments to the principal designer in relation to compliance with the relevant requirements, the principal designer must have regard to those comments.
- (5) The principal designer must—
  - (a) if requested, assist the client in providing information to other designers and contractors;
  - (b) when the principal designer's appointment ends, no later than 28 days after the end of the appointment, give to the client a document explaining the arrangements it put in place to fulfil the duties under paragraphs (1) to (3).
- (6) Where a replacement principal designer is appointed, they must review the arrangements the previous principal designer put in place for fulfilling the duties under paragraphs (1) to (3) so that all reasonable steps are taken to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

#### **Additional duties of a principal contractor**

- 11N.—**(1) The principal contractor must—
- (a) plan, manage and monitor the building work during the construction phase, and
  - (b) coordinate matters relating to the building work comprised in the project to ensure the building work is in compliance with all relevant requirements.
- (2) The principal contractor must take all reasonable steps to ensure—
- (a) contractors and any other person involved in relation to the building work cooperate with the client, the principal designer, the principal contractor and each other (including any successor in a role);
  - (b) the building work of all contractors is coordinated so that the work is in compliance with all relevant requirements; and
  - (c) contractors and any other person involved in relation to building work comply with the duties under these Regulations.
- (3) The principal contractor must liaise with the principal designer and share with the principal designer any information relevant to—
- (a) the planning, management and monitoring of the design work, and



- (b) the coordination of building work and design work for the purpose of ensuring compliance with all relevant requirements.
- (4) Where the principal designer provides comments to the principal contractor in relation to compliance with the relevant requirements the principal contractor must have regard to those comments.
- (5) The principal contractor must—
  - (a) if requested, assist the client in providing information to other designers and contractors;
  - (b) when the principal contractor’s appointment ends, no later than 28 days after the end of the appointment, give to the client a document explaining the arrangements it put in place to fulfil the duties under paragraphs (1) to (3).
- (6) Where a replacement principal contractor is appointed it must review the arrangements the previous principal contractor put in place for fulfilling the duties under paragraphs (1) to (3) to ensure that the building work is in compliance with all relevant requirements.

#### **Notification of change of dutyholder**

**110.**—(1) This paragraph applies where, in relation to any building work, at any time after an application for building control approval is made or a building notice is given the client for a project changes.

(2) Where paragraph (1) applies the new client must give a notice to the relevant authority which includes—

- (a) the location of the building work;
- (b) the name, address, telephone number and (if available) email address of the new client and the date of they became the client;
- (c) the name, address, telephone number and (if available) email address of the previous client and the date they ceased to be the client;
- (d) where the notice is given by someone on behalf of the new client, a statement signed by the new client confirming they agree to the notice being made and that the information contained in the notice is correct.

(3) This paragraph applies where, in relation to any building work, at any time after an application for building control approval is made or a building notice is given the client appoints a principal contractor (or sole contractor) or a principal designer (or sole or lead designer).

(4) Subject to paragraph (5), where paragraph (3) applies the client must give a notice to the relevant authority which includes—

- (a) the location of the building work;
- (b) the name, address, telephone number and (if available) email address of the person appointed (PA) and the date of appointment;
- (c) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the person who held the role before PA (“outgoing dutyholder”) and the date their appointment ended;
- (d) where the notice is given by someone on behalf of the client, a statement signed by the client confirming they agree to the notice being given and that the information contained in the notice is correct.

(5) Where the client is a domestic client (DC), the following applies instead of paragraph (4)—

- (a) an outgoing dutyholder must provide the information referred to in paragraph (4)(c) to the DC within 5 calendar days of the date their appointment ends;

- (b) DC must provide the information referred to under paragraph (4)(c) to PA on the date of appointment of PA or as soon as practicable after that date;
- (c) subject to paragraph (6), PA must give a notice to the relevant authority which includes—
  - (i) the location of the building work;
  - (ii) the name, address, telephone number and (if available) email address of PA and the date of appointment;
  - (iii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;
  - (iv) a statement explaining the notice is given on behalf of a domestic client.
- (6) Where PA has not received the information required to be provided under paragraph (5)(b) by the time the notice under paragraph (5)(c) is to be given, the statement given by PA under paragraph (5)(c)(iv) must also include an explanation to that effect.
- (7) A notice required under paragraph (2), (4) or (5)(c) must be given to the relevant authority within the period of 14 calendar days beginning with the date of the appointment or, as the case may be, the date when the person became the client.
- (8) This regulation does not apply to higher-risk building work.

## CHAPTER 5

### General

#### **Minor work**

**11P.** A client is not required to comply with this Part where the building work or design work consists only of work described in Schedule 4.

#### **Interpretation of this Part**

**11Q.**—(1) In this Part—

“the CDM Regulations” means the Construction (Design and Management) Regulations 2015;  
 “building information” means information in the client’s possession or which is reasonably obtainable by or on behalf of the client, which is relevant to the building work or the design work, including information about—

- (a) the work;
- (b) planning and management of the project;
- (c) issues relating to compliance with any relevant requirement and how they were addressed;

“CDM principal contractor” means a contractor appointed as principal contractor under the CDM Regulations;

“CDM principal designer” means a designer appointed as principal designer under the CDM Regulations;

“design” includes drawings, design details, specifications and bills of quantities (including specification of articles or substances) relating to a building, and calculations prepared for the purpose of a design;

“design phase” means any period during which design work is carried out for a project and may continue during the construction phase;

“relevant requirements” means, to the extent relevant to the building work or design work in question, the requirements of regulations 4, 6, 7, 8, 22, 23, 25B, 26, 26A, 28, 36, 41(2)(a), 42(2)(a), 43(2)(a), 44A, 44ZA, 44ZC and 44D to 44I and Schedule 1.

(2) References in this Part to an appointment under regulation 11D (principal designer and principal contractor) includes an appointment which is certified under regulation 11D(2).

(3) For the purposes of this Part, “organisational capability” means appropriate management policies, procedures, systems and resources to ensure—

(a) individuals under the control of the organisation who are carrying out any building work or any design work comply with—

(i) regulation 11F(1) and (2) (competence: general requirement),

(ii) in case of the principal designer, regulations 11F(1) and (2) and 11G(1);

(iii) in case of the principal contractor, regulations 11F(1) and (2) and 11H(1);

(b) individuals under the control of the organisation who are in training to develop the necessary skills, knowledge, experience and behaviours are appropriately supervised.

(4) For the purposes of this Part the necessary behaviours include—

(a) compliance with relevant requirements, including refusing to carry out—

(i) any building work which is not in compliance with any relevant requirement;

(ii) any design work if the building work to which the design relates cannot be carried out in compliance with all relevant requirements;

(b) cooperation with other persons in relation to the work;

(c) refusing to carry out work which is beyond their skills, knowledge or experience, and asking for the assistance of other persons where necessary.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Building Regulations 2010, PART 2A.