

New Requirements for Principal Contractors

Part 2A sets out the requirements that every client must adhere too. Part 2A comes into force as of 1st October 2023. Under the Regulations, A client or domestic client must appoint both a principal designer and principal contractor.

Appointment of a principal contractor must be made in relation to all projects. Where there are multiple contractors working on the project, a single contractor with control over the building work must be appointed as the principal contractor. A client may comply with the Regulations if they certify in writing that the person who is appointed as the CDM (Construction (Design and Management) Regulations 2015) principal contractor, is also treated as such for the purposes of The Building Regulations. Where it is a higher-risk building, the appointment must be made prior to the application submission, and for any other projects before the construction phase begins. The Regulations detail the full requirements for the appointments. Key points are:

- If an appointment of a principal contractor ends before the end of the project, as soon as practicable the client must make a new appointment.
- If client fails to appoint a principal contractor, the client must fulfil the duties of the principal contractor.
- Where there is only one contractor working on a project, they are treated as the appointed principal contractor and must fulfil the duties of principal contractor.
- In appointments relating to higher-risk building work, the client must keep a written record of the steps taken when making any appointments in relation to the project.

Where a client has appointed a principal contractor, they must ensure that they take “reasonable steps” to satisfy themselves that the appointed contractor is sufficiently competent. Where any person fails to meet the required competency required for, they must not act in that role. In terms of proving competency, the HSE publication “Building safety competence information for principal contractors and principal designers” provides further guidance.

Where the work relates to a higher-risk building, the person appointing must ask the appointee whether a serious sanction¹ has occurred, in relation to them, within the 5 years ending on the date

¹ a serious sanction means -

- 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.
- The issue to A of a stop notice.
- 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.
- 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.

of the appointment and consider any information available relating to any misconduct (including any serious sanction).

The general requirements for the competence any person carrying out any building work under the Regulations are:

- Individuals must have the skills, knowledge, experience, and behaviours necessary.
- Organisations must have 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.

These requirements do not apply where the individual undertaking the work is training to fulfil the requirements. Any trainee undertaking any building must be adequately supervised, and a trainee may not be appointed as the principal contractor.

The requirements for a principal are like the general requirements, with the addition of the following:

- Where the principal contractor is an organisation, an individual must be designated under the organisation's control who has the task of managing its functions as the principal contractor.
- Before designating an individual principal contractor within an organisation, the organisation must satisfy themselves that the individual has the skills, knowledge, experience and behaviours necessary to manage the function of principal contractor on their behalf in such a way that the fulfils the duties of the principal contractor in relation to the building project.

Where a principal contractor ceases to satisfy the competency requirements they must notify the client. If a contractor ceases to satisfy the requirements, then they must notify the principal contractor or the client if there is no principal contractor appointed.

The Regulations provide requirements for duty holders. The duties that any contractor has are as follows:

- Ensure the work carried out by them (and any workers under their control) is planned, managed and monitored so as to be in compliance with all relevant requirements.
- Any person carrying out any building work must cooperate with the client, designers and contractors to ensure that the work is in compliance with all relevant requirements.
- 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.
- A contractor must:
 - i. Ensure the building work they carry out is compliant with all relevant requirements.
 - ii. Provide each worker under their control with appropriate supervision, instructions and information so as to ensure that the building work is compliant with all relevant requirements.
- 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.
- Where a contractor is carrying out only part of the building work, the contractor must consider other work which relates to that building work and report any concerns as to compliance with all relevant requirements to the principal contractor.
- If requested to, a contractor must provide advice to the principal contractor or the client on whether any work is higher-risk building work.

The principal contractor duties are more extensive. Their duties are:

- Plan, manage and monitor the building work during the construction phase.

- Coordinate matters relating to the building work to ensure the building work is in compliant with all relevant requirements.
- Ensure 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.
- Ensure the building work of all contractors is coordinated so that the work is compliant with all relevant requirements.
- Ensure contractors and any other person involved in relation to building work comply with the duties under The Building Regulations.
- The principal contractor must liaise with the principal designer and share with the principal designer any information relevant to:
 - i. The planning, management and monitoring of the design work, and
 - ii. The coordination of building work and design work for the purpose of ensuring compliance with all relevant requirements.
- 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.
- The principal contractor must:
 - i. If requested, assist the client in providing information to other designers and contractors.
 - ii. 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 relevant duties.
- Where a replacement principal contractor is appointed, they must review the arrangements the previous principal contractor put in place for fulfilling their duties under to ensure that the building work is compliant with all relevant requirements.

Where a principal contractor is appointed or changes, the following must be provided to the relevant authority:

- The location of the building work.
- The name, address, telephone number and (if available) email address of the new appointee and the date of they became the appointee.
- The name, address, telephone number and (if available) email address of the previous appointee and the date they ceased to be the appointee.
- Where the notice is given by someone on behalf of the 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.

This does not relate to higher-risk building work.

It is essential that all duty holders exhibit "necessary behaviours", which the Regulations specify as the following:

- 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.
- Cooperation with other persons in relation to the work.
- Refusing to carry out work which is beyond their skills, knowledge or experience, and asking for the assistance of other persons where necessary.