

Domestic clients: roles and responsibilities under the new Construction Regulations



Introduction

A domestic client is an individual who has construction work carried out for them on their own home, or is having a house built for them to live in, but **not** in connection with any business.

The Health and Safety (Management in Construction) (Jersey) Regulations 2016 ('Construction Regulations') place legal duties on a number of people involved with a construction project, including clients, to help ensure health and safety is addressed from the very early stages of planning and design, through construction to eventual demolition of a building.

The Construction Regulations make an important distinction between 'domestic clients' and 'commercial clients', who commission construction work as part of a business.

Domestic clients and the Construction Regulations

Domestic clients are exempt from the Construction Regulations but the duties imposed on clients by the Regulations do not disappear – they are passed to other people, usually the designer but if no designer is involved, the contractor in control of the construction work.

What does this mean to the householder having work done on their own home?

Whilst the householder (ie the domestic client) has no legal responsibilities for the work, the designer or contractor carrying out the work needs to ensure that certain things are done in order to meet their own legal duties. This includes making sure that:

- all people involved with the project are competent
- the risks to health and safety are properly managed
- sufficient time and resources are available for the work to be carried out safely
- information about known risks, such as the presence of asbestos materials, is provided to those involved with the project
- if more than one contractor is involved, one of them is appointed, in writing, as the Principal Contractor, and ensure that a construction phase plan is prepared before work starts

In addition, if the construction work is going to last more than 30 working days, or involve more than 500 man days (eg 20 operatives working for 25 days) then additional steps must be taken to ensure that:

- a health and safety project co-ordinator (HSPC) is appointed in writing
- certain health and safety related information is provided to the HSPC
- retain and provide access to a health and safety file which is prepared for the project

Making sure the above matters are addressed is likely to incur some financial cost, which should be proportionate to the size and complexity of the project.

The domestic client is therefore likely to see a charge added by the designer, or principal contractor, as relevant, to cover these expenses. It has been found, however, that paying a little extra at the planning stages helps with the smooth running of the project, with fewer unseen problems and delays, and can save money in the long term.

Can a domestic client refuse to pay for the costs arising from the requirements under the new Construction Regulations?

A domestic client is not legally responsible for discharging the duties imposed on clients under the Construction Regulations and, as such, does not have any legal obligation to pay for any costs incurred in this respect. However, as the designer or contractor is legally obliged to ensure the necessary measures are in place, if the domestic client does not agree to cover the cost, they are unlikely to find any professionals willing to undertake the work on the property - as the designer (or contractor) will effectively have to cover the cost themselves.

It is anticipated that the cost will become a standard part of the fee proposal or quote provided by the person responsible for ensuring the client's duties are carried out.

If you have any queries or require further information on the Construction Regulations, contact the Health and Safety Inspectorate on 01534 447300 or email HSI@gov.je.

A handwritten signature in black ink that reads "Tammy Fage". The signature is written in a cursive style with a long horizontal stroke above the first name.

Tammy Fage
Director of Health and Safety Inspectorate
July 2017