

Building Energy Rating (BER) Assessors and Display Energy Certificate (DEC) Assessors

Code of Practice

February 2025

v1.4



Contents

1.	Introduction	4
2.	Registration as a BER/DEC Assessor	5
2.1	Principal of a BER/DEC Assessor.....	7
3.	Evidence of Registration.....	7
4.	Competence and Diligence of BER/DEC Assessors	7
5.	Data Integrity.....	8
5.1	Signed Onsite or Written Appointment Confirmation	8
5.2	Unique Photographic Evidence.....	9
5.3	New Provisional BER Assessments	9
5.4	Data Integrity in DEAP	9
6.	BER/DEC Assessor's Obligation to Act in an Independent Manner.....	9
6.1	Independence	9
6.2	Definition of "Connected Person"	10
6.3	Meaning of "Owned"	10
6.4	Management of Independence	10
6.5	Annual Declaration	10
6.6	SEAI's Reserved Rights and Powers	11
7.	Carrying out BER/DEC Assessments.....	11
7.1	Carrying out Domestic BER Assessments in DEAP	13
8.	Records, Data and Documentation	13
8.1	Relevant Definitions.....	13
8.2	BER/DEC Records Management	14
8.3	Customer Service Documentation	14
9.	Indemnification of the Sustainable Energy Authority of Ireland and Insurance	15
10.	Confidentiality and Data Protection.....	15
10.1	Purpose	16
10.2	Responsibilities	16
10.3	Purpose limitation.....	16
10.4	Security Requirements	16
10.5	Transparency.....	17

10.6 Retention & Deletion	17
10.7 Data Subject Rights.....	17
10.8 BER/DEC Assessor Assistance.....	17
10.9 Disclosure of Scheme Data	18
11. Client Service, Independence and Production of Prior Written Quotes for Assessment related Work.....	18
12. Charges and Levies for BER/DEC Assessments	19
13. Advertising and Sales Promotion.....	20
14. Use of Technology Resources	20
15. Monitoring and Compliance.....	20
15.1 Monitoring and Compliance of Domestic BER Assessments in DEAP	22
16. Appeals, Complaints and Disputes.....	22
17. Registers Managed by SEAI or its Agents.....	22
18. Conformance to Building Regulations Part L.....	22
19. Engagement with the Building Owner, Client and SEAI or its Agents.....	23
20. Whistle-Blower Policy.....	23
21. Amendments to the Code of Practice and Directions.....	24
22. Freedom of Information	24

1. Introduction

Building Energy Rating (BER) assessors ("**BER assessors**") and Display Energy Certificate (DEC) assessors ("**DEC assessors**") are persons registered with the Sustainable Energy Authority of Ireland ("**SEAI**") to carry out BER/DEC assessments in line with the requirements of the European Union (Energy Performance of Buildings) Regulations 2012¹ as amended (the "**Regulations**"). The Regulations create a scheme for the carrying out of BER assessments and DEC assessments (the "**Scheme**").

This Code of Practice (the "**Code**") applies to domestic and non-domestic BER assessors and DEC assessors to which the Regulations apply. It is issued by SEAI in accordance with Regulation 17(1)(g) of the Regulations. BER and DEC assessors must comply with the provisions of the Code pursuant to Regulation 17(2). In addition, by registering as a BER/DEC assessor, a person commits to abide by this Code. Failure to comply with this Code can lead to suspension or termination of registration by SEAI pursuant to Regulation 16(11)(g) of the Regulations.

The primary objective of this Code is to ensure that BER/DEC assessors have a clear understanding of their obligations to deliver a high-quality service in the marketplace.

This Code details the roles and responsibilities of BER/DEC assessors and SEAI for domestic, non-domestic and public buildings, to ensure the delivery of a technically proficient and timely service to clients, with high standards of professional conduct, and thereby to enable clients to meet their obligations under Regulations 10,11,12,13 and 14 of the Regulations and related obligations.

SEAI's statutory functions in relation to the Scheme include, among other matters:

- registering BER assessors to carry out BER assessments;
- issuing directions in relation to how BER assessments are to be carried out by BER assessors and how BER certificates are to be issued;
- specifying the procedures, methodologies, and software to be followed by BER assessors when carrying out BER assessments; and
- maintaining the National BER Register and the Register of BER Assessors.

BER assessors are solely responsible for, among other matters:

- carrying out BER assessments and verifying the accuracy of each data point in the BER assessment that they carry out;
- submitting all required data and documents to SEAI upon completion of BER assessments;
- ensuring that the data compiled and inputted as part of the BER assessment, is an accurate representation of all characteristics relevant to the energy performance of the building;
- uploading complete assessments to SEAI's National BER Register for BER assessments;
- issuing BER certificates and advisory reports directly to their clients once they are accepted into the National BER Register maintained by SEAI.

The Code promotes delivery by BER/DEC assessors of a high-quality service in an independent manner, which is essential to the reputation and reliability of the scheme ("**Scheme**").

It is imperative that BER/DEC assessors and prospective BER/DEC assessors (and where applicable, their Principals) comply with this Code and the Regulations. A copy of the Regulations is available on the electronic Irish Statute Book [here](#).

In this Code, save where the contrary is explicitly stated, the term "**Principal**" includes an employer, partnership,

¹ Statutory Instrument (S.I.) No. 243 of 2012

company or public body named as part of a BER/DEC assessor's registration application under which a BER/DEC assessor's registration is listed on the public register of BER/DEC assessors. However, the term "**Principal**" shall not include a franchisee's franchisor (as BER assessors or DEC assessors who are franchisees are regarded as being independent Principals in their own right).

In accordance with the Regulations, SEAI has specified the procedures to be followed by BER/DEC assessors when carrying out BER/DEC assessments. These procedures include calculation methods and software, as well as any building survey requirements. In this Code, references to these procedures are as follows:

"**DEAP**" refers to the Domestic Energy Assessment Procedure, Ireland's official method for calculating a building energy rating for dwellings. This comprises of the internet based DEAP methodology software tool, as described in the DEAP Manual. The DEAP software calculates the BER and demonstrates compliance with Part L of the Building Regulations for new dwellings.

"**NEAP**" refers to the Non-Domestic Energy Assessment Procedure and is Ireland's official methodology for calculating a building energy rating for non-domestic buildings. The NEAP software calculates the BER and demonstrates compliance with Part L of the Building Regulations for new buildings using the default Simplified Building Energy Model (SBEMie) software or other approved software.

"**DEC**" refers to Display Energy Certificate and is based on an assessment of the measured energy consumption of a building using procedures, including calculation methodology and software, specified by SEAI for the purpose of generating a Display Energy Certificate.

Important terms used throughout this Code are defined in the Regulations. Generally, terms used in this Code shall have the same meaning as they do in the Regulations unless the contrary is explicitly stated.

2. Registration as a BER/DEC Assessor

SEAI, in its capacity as the Issuing Authority under the Regulations, registers persons as a BER/DEC assessor in accordance with the Regulations and the terms, conditions and criteria published on the SEAI website. Registration as a BER/DEC assessor includes a commitment to adhere to this Code. It is an offence under the Regulations where persons not registered with SEAI engage in the practice of carrying out BER/DEC assessments and publish such assessments.

To register as a BER/DEC assessor for the first time, an applicant must:

- a) demonstrate that they have met the pre-qualification requirements and have fulfilled the training requirements as set out or directed by SEAI from time to time on SEAI's website;
- b) complete a registration form and provide the required documentation as set out on SEAI's website;
- c) accept and agree to the duties and obligations set out in this Code;
- d) pay the registration fee and provide a completed direct debit mandate for the ongoing collection of renewal fees and BER/DEC publication levies;
- e) comply with the insurance requirements, as detailed in Section 9 of this Code; and
- f) provide and maintain valid tax clearance by certificate or eTC (eTax Clearance).

To facilitate on-the-job learning, SEAI may also require recently registered BER/DEC assessors to facilitate an accompanied audit during the first 6 months of registration (refer to Section 15 for more information in respect of audit activity).

Initial registration of a BER/DEC assessor is normally for one year and registrations are subject to annual renewal, unless suspended or terminated by SEAI during that period or otherwise cancelled by the BER/DEC assessor or their Principal (where relevant and appropriate).

SEAI may consider not renewing the registration of BER/DEC assessors where no assessments were carried out

in the preceding 12-month period.

SEAI may set specific re-registration requirements.

SEAI may consider not renewing the registration of a BER/DEC assessor for a period of 24 months in instances where the relevant assessor had been subject to 3 or more suspensions within a 2-year period and/or a summary suspension/termination of registration.

Registration is renewed automatically annually, subject to:

- a) payment of the registration renewal fee;
- b) the BER/DEC assessor must provide and maintain valid tax clearance by certificate or eTC (eTax Clearance);
- c) the BER/DEC assessor must submit a certificate of insurance demonstrating compliance with the insurance requirements detailed in Section 9 of this Code; and
- d) the BER/DEC assessor must submit an Annual Declaration, as detailed in Section 6 of this Code, for the previous 12-months.

SEAI may, at any time, suspend and/or terminate a BER/DEC assessor's registration if it has formed the opinion that the assessor has ceased to be capable of performing their functions under the Regulations properly and efficiently, or has breached the terms of their registration, or has otherwise failed to comply with the Regulations or with the terms of this Code or with other directions issued by SEAI in its capacity as the Issuing Authority under the Regulations.

Normally, action by SEAI to suspend or terminate a registration will be taken only after the BER/DEC assessor has been informed of the deficiency on the part of the BER/DEC assessor and has been given an opportunity to correct it. However, SEAI reserves the right to immediately suspend or terminate a registration without notice when it reasonably believes that such action is required to protect the interests of SEAI and the Scheme. Suspension shall be notified in writing to the BER/DEC assessor and with a copy issued to their Principal (where applicable) and will take effect on the date indicated in the notification. Details of the disciplinary actions and processes applicable to BER/DEC assessors are set out in the BER/DEC Quality Assurance System and Disciplinary Procedures ("**QADP**"), available on SEAI's website.

The Regulations require that the name of each current BER/DEC assessor, their Principal (if any), place of business, contact details, and for BER assessors, the designated classes of buildings to which their BER registration applies, shall be open to public inspection on the Register of Domestic BER assessors, Non-domestic BER/DEC assessors, as appropriate. Copies of the Register are kept at the offices of SEAI and the details in the Registers are also available on SEAI's website. Further details of the Registers of BER/DEC assessors and other registers managed by SEAI, or its Agents are set out in Section 17 of this Code.

In accordance with the Regulations, where SEAI suspends or terminates a BER/DEC assessor's registration, it shall be noted in the above-mentioned Registers. Where a BER/DEC assessor's Principal is not the BER/DEC assessor's employer, SEAI reserves the right in this Code to require and use contact details of a BER/DEC assessor's Principal and SEAI may make such Principal's contact details available for public inspection.

A BER/DEC assessor whose registration has lapsed, or been suspended, terminated, or cancelled, shall promptly remove all reference to registration from their notepaper, communications and property and shall not in any way represent themselves or their business as being registered as a BER/DEC assessor. A BER/DEC assessor whose registration is suspended, terminated or cancelled, shall, where required by SEAI, promptly return to SEAI any or all SEAI documentation or other property including their Certificate of Registration.

A BER/DEC assessor may cancel their registration under the Scheme at any time by sending an email from their registered email address to registered@ber.seai.ie. Note that registration and renewal fees paid to SEAI are

non-refundable. If a BER/DEC assessor wishes to re-register at a later date, they will be subject to the relevant renewal and/or registration fees, where applicable.

It is an offence, if a person who is not certified and registered to represent themselves as such, to purport to be a BER assessor for a designated class or classes of buildings, or a DEC assessor or an authorised officer under the Regulations. It is also an offence for a person to represent themselves as a BER/DEC assessor if their registration has lapsed, been suspended, or terminated.

2.1 Principal of a BER/DEC Assessor

Where a Principal, as defined in Section 1, includes an employer, partnership, company, or public body named as part of a BER/DEC assessor's registration application and/or under which a BER/DEC assessor's registration is listed on the public register of BER/DEC assessors, offers BER/DEC assessment services to clients via employees who are registered BER/DEC assessors, certain obligations in the Code of Practice can be assumed directly by the Principal as well as by the employee BER/DEC assessor.

As part of the registration of a BER/DEC assessor, where applicable, a Principal agrees to the following obligations and is required to indemnify SEAI in respect of liabilities arising as a result of its employee BER/DEC assessor's activities, including;

- a) payment of registration fees and/or levies for registration of a BER/DEC Assessor and for publication of BER/DEC certificates issued on behalf of the Principal;
- b) retention and maintenance of all records, data and documentation as would be required to defend, should they be questioned, assessments carried out by the BER/DEC assessor on behalf of the Principal, and
- c) ensure that all records, data and documentation are stored in a secure, confidential and accessible manner as required in this Code.

3. Evidence of Registration

Upon registration or renewal thereof, SEAI shall provide each BER/DEC assessor with a Certificate of Registration. Every BER/DEC assessor shall produce, on request, their Certificate of Registration for inspection by members of the public, clients and/or their agents, and by the authorised officers of SEAI.

4. Competence and Diligence of BER/DEC Assessors

A BER/DEC assessor is required to act with integrity and diligence to ensure that each BER/DEC assessment is of high quality and is executed competently, in an independent manner and in accordance with the Regulations, this Code and all other directions issued by SEAI.

A BER/DEC assessor shall offer BER/DEC assessment services only in respect of that class or those classes of building to which their registration as a BER/DEC assessor specifically applies.

A BER/DEC assessor is registered by SEAI based on their competence to carry out the work. The registration requirements for a BER/DEC assessor may (depending on the designated class of buildings to which their BER/DEC registration applies) include successful completion of a validated training course and will include an agreement to meet the obligations set out in this Code.

A BER/DEC assessor is required from time to time to update, at their own cost, their skills and/or resources to meet the standards required on an ongoing basis by SEAI. This may be subject to verification by SEAI or its appointed agents or contractors in order to approve renewal of registrations. In addition, SEAI will present regular workshops to assessors which will cover technical methodologies and general practice principles

identified for further clarification from time to time. It is expected that assessors will attend these workshops as part of Continuing Professional Development (“**CPD**”) targets which may be set by SEAI from time to time.

SEAI will monitor the CPD activities of BER/DEC assessors annually as part of the process to continue or renew BER/DEC assessor registrations. BER assessors should refer to the SEAI BER assessor CPD Policy published on SEAI’s website, which may be updated from time to time. Compliance with the CPD requirements may be verified by SEAI.

SEAI may from time to time require or direct BER/DEC assessors generally, BER/DEC assessors operating or proposing to operate in a specific class or classes of building, or applicants desiring to become BER/DEC assessors, to partake in training and/or to sit examinations of whatever type required or directed by SEAI. SEAI may require any specified examinations to be successfully passed within a certain period of time in order for a registration or proposed registration of a BER/DEC assessor to remain in place or to take effect.

5. Data Integrity

A BER/DEC assessor is responsible for ensuring that, within reason and in accordance with Section 10, the data compiled and inputted to SEAI approved calculation software, and all other related and recorded calculations, are an accurate representation of all characteristics relevant to the energy performance of the building and are capable of being verified as such in any subsequent monitoring and compliance processes commenced by SEAI.

A BER/DEC assessor is required to visit the premises to collect the data for the assessment. SEAI requires BER/DEC assessors to obtain and maintain evidence that the BER/DEC assessor has visited the property in the form of:

- a) signed onsite or written appointment confirmation; and
- b) unique photographic evidence from the premises visited.

5.1 Signed Onsite or Written Appointment Confirmation

Signed onsite confirmation of a site visit should include printed names and signatures of both the BER/DEC assessor and the client on site. Written appointment confirmation can include a text message or email, copies of which may be requested in audits. This option should only be used when the client is not present on site.

The following table sets out the requirements:

Homeowner, Tenants, and Agents	
Onsite Confirmation	Confirmation signed on site that assessor survey took place.
Written Appointment Confirmation	Email, text message or other contemporaneous note of written confirmation of assessor appointment to carryout survey including date and time.

As outlined in Section 8 below, signed onsite confirmation of a site visit does not form part of the BER/DEC assessment data and it is not a requirement to publish or upload this documentation to DEAP. However, it may be a requirement to produce this documentation upon the BER/DEC assessor’s selection for audit as part of the monitoring and compliance processes carried out by SEAI in accordance with this Code and the QADP, to protect the interests of BER/DEC clients.

5.2 Unique Photographic Evidence

BER/DEC assessors must also always obtain and upload unique photographic evidence from premises visited. The procedures for existing and new final BER assessments require that BER/DEC assessors carry out a full building survey to collate and verify data for assessment before submitting the BER/DEC data file to SEAI or its nominees in accordance with Section 8 of this Code.

Care must be taken by the BER/DEC assessor to ensure that no personally identifying information or sensitive data is captured in this photographic evidence. More information on data protection requirements when collecting BER assessment data can be found in the applicable Survey Guides for domestic and non-domestic BER/DEC assessors, which are published on SEAI's website.

BER/DEC assessors may also review plans and specifications for new or existing buildings. Plans and specifications may be useful in providing supplementary information not available from the site survey, however data gathered on site takes precedence over any such plans and specifications.

5.3 New Provisional BER Assessments

The only exception to the requirement to visit the premises is for new provisional BER assessments. In accordance with the Regulations, a new provisional BER assessment can be carried out by BER assessors based on design drawings and specifications of an uncompleted building provided that, on completion of the building in question, a new final BER assessment is carried out on the completed building in accordance with the procedures for existing and new final BER assessments. A new provisional BER assessment must be carried out in compliance with the appropriate methodology and is subject to audit.

5.4 Data Integrity in DEAP

As further detailed in Section 8 of this Code, all key BER assessment data relating to domestic BER assessments must be completely uploaded in full to DEAP prior to publication. This BER assessment data will be subject to subsequent monitoring and compliance processes carried out by SEAI in accordance with this Code and the QADP.

6. BER/DEC Assessor's Obligation to Act in an Independent Manner

6.1 Independence

BER/DEC assessors are required to act in an independent and transparent manner at all times when discharging their duties and obligations under the Regulations and this Code.

BER/DEC assessors are prohibited from carrying out a BER/DEC assessment on a building where a lack of independence exists. A lack of independence exists where:

- a) the relevant building is owned by the BER/DEC assessor or by any Connected Person (as defined below); or
- b) at the time of carrying out or publishing a BER/DEC assessment, or within the subsequent 12 months, the relevant building is to be sold or let by the BER/DEC assessor or a Connected Person in their capacity as a sale or letting intermediary; or
- c) where the BER/DEC assessor would be assessing energy improvement works carried out by them or by a Connected Person within the preceding 12 months²; or

² Refer to Section 11 of this Code in relation to requirements in offering BER/DEC services.

- d) where there are any other circumstances in which the BER/DEC assessor has a material financial interest in the outcome of an assessment other than the fee charged for providing the rating.

It is a matter for each BER/DEC assessor to take adequate steps to ensure that a building on which they carry out a BER/DEC assessment is/will not be sold or let by them or a Connected Person at the time of carrying out or publishing that BER/DEC assessment or within the subsequent 12 months.

6.2 Definition of “Connected Person”

For the purpose of this Code, a “**Connected Person**” means:

- a) a BER/DEC assessor's spouse (or partner), parent, brother, sister, or child, or
- b) a BER/DEC assessor's Principal (as defined in Section 1 of this Code), or
- c) a BER/DEC assessor's business partner, meaning any person with whom a BER/DEC assessor carries on business with a view to profit, or
- d) a company in which any of the persons mentioned in (a), (b) or (c) have a legal or beneficial interest; or
- e) a company which is an associated company (as described in Section 432 of the Taxes Consolidation Act, 1997) of a company covered by (d) above.

These definitions provide an indication of the meaning of a Connected Person, but SEAI considers a Connected Person as any relationship that may result in an actual or perceived impact on a BER/DEC assessor's independence. BER/DEC assessors should give adequate consideration as to whether any current or previous relationships may result in an actual or perceived impact on their independence, and whether such relationships should be treated as Connected Persons under this Code.

6.3 Meaning of “Owned”

For the purpose of this Code, “**owned**” refers to property, which is wholly, partly, beneficially or legally owned and the expression “**owner**” shall be construed accordingly.

6.4 Management of Independence

Each registered BER/DEC assessor is expected to have an adequate system in place to manage independence to ensure that, prior to carrying out a BER/DEC assessment, they have made adequate enquiries as to whether any lack of independence, as defined in this Section 6 of the Code, exists. SEAI may, as part of carrying out audits under its monitoring and compliance procedures, require BER/DEC assessors to produce evidence that they have such a system in place.

6.5 Annual Declaration

Each registered BER/DEC assessor must make an annual declaration of independence (the “**Annual Declaration**”) as a requirement for renewal of their registration. The purpose of the Annual Declaration is to:

- a) confirm that the registered BER/DEC assessor made adequate enquiries to identify any lack of independence, as defined in this Section 6 of the Code;
- b) specify the actions taken by the BER/DEC assessor in respect of any lack of independence identified; and
- c) confirm that an adequate system to manage independence is in place, which ensures that before carrying out a BER/DEC assessment, any potential lack of independence, as defined in this Section 6, is evaluated and correctly treated.

The Annual Declaration form is available on SEAI's website.

The Annual Declaration must be completed and sent to SEAI every 12 months by every registered BER/DEC assessor.

As set out in Section 2 of this Code, when a BER/DEC assessor submits a new Certificate of Insurance to SEAI, SEAI will check whether the BER/DEC assessor has submitted an Annual Declaration within the previous 12 months. If the BER/DEC assessor has not submitted an Annual Declaration within the previous 12 months, their insurance details will not be updated, and they will accordingly not be included on the relevant Register. BER and DEC assessors are reminded that insurance is an ongoing requirement for registration and a Certificate of Insurance must be submitted annually.

6.6 SEAI's Reserved Rights and Powers

SEAI may at any time, with or without cause, investigate whether any BER/DEC assessor has acted independently and in compliance with this Section 6.

Upon becoming aware of any lack of independence and/or non-compliance with this Section 6, SEAI may revoke a BER/DEC record or part thereof in accordance with the Regulations. In this event, SEAI shall notify the BER/DEC assessor of its decision. The BER/DEC assessor shall be liable for all losses and liabilities which arise as a result of any such revocation.

SEAI may also revoke a BER/DEC record, or part thereof, in circumstances where a BER/DEC assessor conducted an assessment of a building in a manner which appeared, at the time of the assessment, to be in compliance with the terms of this Code, but where the BER/DEC assessor subsequently acquired any material financial interest in that building or in its sale or letting and, as a result of such, SEAI has reasonable grounds for believing that the BER/DEC assessor lacked independence in carrying out the original assessment, and consequently that the BER/DEC record was not completed or issued in accordance with the Regulations.

Where a public body is required to secure a BER/DEC certificate to comply with the Regulations, then a BER/DEC assessor who is an employee of this public body or an employee of another public body shall be entitled to conduct a BER/DEC assessment pursuant to the Regulations on the building in question without a breach of this Section 6 or the Regulations taking place.

7. Carrying out BER/DEC Assessments

A BER/DEC assessor takes full responsibility for:

- a) verification of the accuracy of each data point in each BER/DEC assessment that he or she carries out; and
- b) the accurate submission of a BER/DEC assessment to SEAI for publication on the BER/DEC Register.

All work associated with the BER/DEC assessment, including the site visit, shall only be carried out by the BER/DEC assessor responsible for the publication of the BER/DEC. It is the responsibility of BER/DEC assessors to ensure that the number of assessments carried out does not impact on their ability to meet SEAI's requirement for a quality service in the marketplace, which is delivered in line with this Code, the Regulations, and the relevant BER/DEC technical methodologies.

In carrying out BER/DEC assessments, a BER/DEC assessor shall use the procedures specified by SEAI and shall comply with the Regulations, this Code and any other directions issued by SEAI. This includes following the relevant survey guides published on SEAI's website. In particular, a BER/DEC assessor must engage with the building owner or client to query any upgrade works, including any recent or previous grant-aided works, and request any applicable supporting documentary evidence. This is to ensure that any upgrade works are

captured in accordance with the relevant methodologies and that any supporting evidence is obtained and stored as part of the BER data file.

If a BER/DEC assessor is of the opinion that a building or any of its equipment is in such a condition as to make it unsafe or impractical to carry out an assessment, the BER/DEC assessor may refuse to carry out the assessment. In such circumstances, the BER/DEC assessor shall return any fee received in respect of that proposed BER/DEC assessment.

BER/DEC assessors are required to record completed assessments on the BER/DEC Register within a reasonable period after the assessment date, as agreed with the client. At the time of recording of BER/DEC assessments on the register, all records, data, and documentation specified in Section 8 of this Code must be completed, uploaded as required, and immediately available if required for inspection.

It is the responsibility of BER/DEC assessors to ensure that all validation notices issued by SEAI prior to acceptance of a BER/DEC data file into the BER/DEC Register, are adequately reviewed and resolved. Once the BER/DEC data file is accepted into the BER/DEC Register by SEAI, the BER/DEC assessor must issue;

- a) both the BER/DEC certificate and accompanying advisory report, and;
- b) where appropriate, a Declaration of Interest Form³ to the BER/DEC client.

Material changes in the building which affect its energy performance may invalidate a BER/DEC certificate and accompanying advisory report. If such material changes are identified during an audit, SEAI may require the BER/DEC assessor to notify the client that a new BER/DEC will be required or to revoke the BER/DEC data file.

Under the Regulations, SEAI may also revoke a BER/DEC data file for a building compiled by a BER/DEC assessor where SEAI has reasonable grounds for believing that the BER/DEC data file was not completed or not issued in accordance with the Regulations or this Code. Where a BER/DEC data file is revoked, any BER/DEC certificate and accompanying advisory report issued on foot of that data file shall be deemed to stand revoked, and that revocation will be entered by SEAI into the BER/DEC record for that building.

Where SEAI revokes a BER/DEC data file, it will immediately notify the BER/DEC assessor of the date of revocation, the reason for the revocation and the address or other identifier of the building to which the revoked data file relates.

SEAI may in such instances require the BER/DEC assessor to obtain a signed confirmation from the BER/DEC client that they were informed of the revocation and reasons for same.

In addition, where a BER/DEC data file is revoked, SEAI may, pursuant to Regulation 17(1)(h) of the Regulations, direct the BER/DEC Assessor to do any or all the following:

- a) inform the BER/DEC client and other affected persons of the revocation and the reasons for same;
- b) request the BER/DEC client to destroy all printed copies of the revoked BER/DEC certificate and any accompanying advisory report in accordance with Regulation 23(3) of the Regulations;
- c) re-submit a BER/DEC data file with correct values;
- d) re-submit the BER/DEC for publication, at the BER/DEC assessor's own expense; and/or
- e) provide the BER/DEC client with the replacement BER/DEC certificate.

Further, where SEAI revokes a BER/DEC data file, BER/DEC assessors should note also that under Regulations 23 and 24 of the Regulations:

³ Refer to section 11 of this Code in relation to requirements in offering BER/DEC services.

- a) SEAI may demand, by notice in writing, the giving up by the owner of the building or by the owner's agent, to SEAI, of any existing written version or copy of the relevant BER/DEC certificate and accompanying advisory report within 14 days of the making of such demand; and
- b) the client can apply to the BER/DEC assessor for reimbursement of any fee paid for the relevant BER/DEC assessment and the BER/DEC assessor must reimburse the fee if they are satisfied that the fee for the relevant BER/DEC assessment was paid by that client.

7.1 Carrying out Domestic BER Assessments in DEAP

All BER assessment data will be subject to subsequent monitoring and compliance processes carried out by SEAI in accordance with this Code and the QADP. Incomplete BER assessment data may result in revocation of the published BER data file if, following audit or otherwise, SEAI has reasonable grounds for believing that it was not completed or issued in accordance with the Regulations or this Code.

8. Records, Data and Documentation

8.1 Relevant Definitions

The following terms have the meanings defined in the Regulations, which are restated here for ease of reference:

"BER record" means, as the case may be, the current and any earlier BER certificate, including any provisional BER certificate where applicable, any advisory report, any BER data file and any related data or documents, pertaining to a building.

"BER data file" means an electronic file which contains a report on the outcome of a BER assessment of a building in a form approved by the Issuing Authority, which is completed by a BER assessor and provided to the Issuing Authority for the purpose of notifying it of the record to be made or updated on the BER register in respect of that particular building, and shall be deemed to include any calculations and related data or documents accompanying that report.

"DEC record" means, as the case may be, the current and any earlier DEC, any advisory report, any DEC data file and any related data or documents, pertaining to a building.

"DEC data file" means an electronic file which contains a report on the outcome of a DEC assessment of a building in a form approved by the Issuing Authority, which is completed by a DEC assessor and provided to the Issuing Authority for the purpose of notifying it of the record to be made or updated on the DEC register in respect of that particular building, and shall be deemed to include any calculations and related data or documents accompanying that report;

In addition, for the purposes of this Code, the technical data collected on site by a BER/DEC Assessor is referred to as **"BER assessment data"** or **"DEC assessment data"** and includes:

- a) All supporting drawings, data and other documentation required to support or verify the BER/DEC assessments, including:
 - survey drawings and calculations informing the assessment;
 - unique photographic evidence from the premises visited, adequately describing all fields of input as specified in the Survey Guide;
 - scanned documentation relevant to the assets and elements within the premises;
 - all ancillary certificates and consultancy reports.

For domestic BER assessments, a BER assessor is required to upload all **"key evidence"** to DEAP, which includes:

- all documentation and photos required to support the dwelling/extension age (where available); and

- any documentation and photos required to support all the non-default values, where applicable.

8.2 BER/DEC Records Management

Upon completion of a BER/DEC assessment, the BER/DEC assessor shall submit to SEAI or its appointed agents or contractors the related BER/DEC assessment data in accordance with the specified BER/DEC assessment procedure.

BER/DEC assessment data should only be submitted to SEAI if all the associated records, data and/or documentation specified in this Section 8 of this Code, are up-to-date, complete, uploaded where required and immediately available for inspection.

For domestic BER assessments, it is the responsibility of the BER assessor to ensure the BER assessment data is clear and the key assessment data complete when uploaded to DEAP. Where it is not possible to upload all required BER assessment data to DEAP prior to publication, BER assessors must retain a full copy of the BER assessment data in electronic and/or paper form and refrain from publication until it is possible to complete and publish the final DEAP file, or for the full retention period applicable to such data as set out in Sections 8 and 10 of this Code.

SEAI shall only issue a BER/DEC certificate and accompanying Advisory Report if SEAI accepts a BER/DEC data file into the BER/DEC Register.

BER/DEC assessors must ensure that all BER/DEC assessment data is collected while carrying out the BER/DEC assessment. Upon publication, (including the uploading of BER/DEC assessment data to DEAP) the BER/DEC data file is created, and the relevant Register (NAS or NDNAS) generates the BER/DEC Certificate based on the BER/DEC data file.

In accordance with the Regulations, all records, data, and documentation published/uploaded and kept by BER/DEC assessors as evidence relating to a BER/DEC assessment are the property of SEAI, shall be furnished to SEAI on demand and shall be subject to monitoring and compliance processes carried out by SEAI in accordance with this Code and the QADP. Upon the BER/DEC assessor's selection for audit, the BER/DEC record, BER/DEC data file and BER/DEC assessment data shall form part of the data selected for monitoring.

Every BER/DEC assessor is responsible for the retention and maintenance of all such records, data and documentation as may be required to support or verify the assessments. In particular, BER/DEC assessors and/or their Principals, where applicable, must securely maintain and retain all BER/DEC records both during the time when a BER/DEC assessor is registered as a BER/DEC assessor, and, if required, after ceasing to be registered.

Unpublished records must be retained for 10 years after the date of assessment. Certificates published to the relevant Register and their related records must be retained for 10 years from the date of publication, or until the certificate and its related records expire or are otherwise superseded in accordance with the time periods specified in Section 10 of this Code.

BER/DEC assessors, and their Principals (where applicable), are responsible for BER/DEC assessments for the full retention period of 10 years or until the certificate and related records expire or are superseded. This includes responding to any queries arising in relation to the BER/DEC assessments published by them. BER/DEC assessors and/or their Principals may also be requested to share key assessment data with their clients, subsequent BER/DEC assessor and/or the building owner where required.

8.3 Customer Service Documentation

Customer service documentation does not form part of the BER/DEC assessment data and it is not a requirement to publish or upload this documentation to DEAP. However, it may be a requirement to produce

the following documentation upon the BER/DEC assessor's selection for audit as part of the monitoring and compliance processes carried out by SEAI in accordance with this Code and the QADP, to protect the interests of BER/DEC clients:

- a) Confirmation of site visit;
- b) Declaration of Interest Forms; and
- c) Letter of Engagement.

9. Indemnification of the Sustainable Energy Authority of Ireland and Insurance

Each BER/DEC assessor (and their Principal, where applicable) hereby acknowledges that responsibility for conducting BER/DEC assessments and the accuracy of the results of such assessments rests solely with them and no liability shall attach to SEAI for any error, misconduct, malpractice, act or omission howsoever arising from carrying out a BER/DEC assessment, the accuracy of the results of such assessments or resulting from the findings of a BER/DEC assessment. All assessments should be carried out in compliance with the relevant health and safety laws and standards.

A BER/DEC assessor (and their Principal, where applicable) shall indemnify SEAI against all actions, proceedings, claims or demands whatsoever arising out of or in connection with:

- a) the negligent or otherwise wrongful act or omission on the part of the BER/DEC assessor;
- b) a breach by the BER/DEC assessor of the Regulations, this Code or any other direction from SEAI; and
- c) any other consultancy service or advice provided by the BER/DEC assessor in respect of the energy efficiency of buildings or otherwise.

SEAI requires, as mandatory, that each BER/DEC assessor and/or each BER/DEC assessor's Principal, as appropriate, in relation to the exercise of their BER/DEC functions, takes out and maintains the following levels of insurance cover, on an ongoing basis, for the periods set out below (or for the period of registration where no period is specified):

- a) professional indemnity insurance with a minimum limit of €1,300,000 for any one claim. This recommended professional indemnity insurance cover should be maintained for a period of at least 10 years beyond termination or cancellation of a BER/DEC assessor's registration;
- b) public liability insurance with a minimum limit of €6,500,000 for any one accident or claim; and
- c) employer's liability insurance with a minimum limit of €13,000,000 for any one accident or claim.

SEAI will require evidence of current insurance cover in place to be made available as part of audits carried out. In addition, BER/DEC assessors are required to inform SEAI immediately if, at any stage during an assessor's registration, such insurance cover as required by this Section 9 is suspended, terminated or for any other reason no longer in place.

Certificates confirming these levels of insurance are current shall, where a BER/DEC assessor and/or a BER/DEC assessor's Principal has procured same, be made available to SEAI or their representatives on request.

10. Confidentiality and Data Protection

SEAI and each BER/DEC assessor act as joint data controllers in respect of any personal data collected and processed in connection with the administration of the BER/DEC Scheme (for the purpose of this Section 10 is referred to as the "**Scheme Data**").

This Section 10 sets out the framework by which SEAI and each BER/DEC assessor will process Scheme Data in accordance with the General Data Protection Regulation (EU) 2016/679 (GDPR), in particular Article 26 and the Data Protection Acts 1988 to 2018 (collectively "**Data Protection Law**").

10.1 Purpose

SEAI and each BER/DEC assessor will, from time to time, process Scheme Data in connection with their respective roles in the administration of the BER/DEC Scheme which includes:

- a) SEAI determining the manner, including the calculation methods and software, in respect of which BER/DEC assessments are to be carried out;
- b) BER/DEC assessors completing a BER/DEC assessment (incl. a site visit and initial engagement with the client) and collecting the Scheme Data;
- c) BER/DEC assessors in inputting collected Scheme Data in the relevant system for submission, such as DEAP, SBEM, NAS or NSDAS ("**Relevant System**") to complete and/or publish a BER assessment;
- d) SEAI in managing and monitoring the quality of published records on the Relevant Systems; and
- e) BER/DEC assessors in publishing a BER/DEC assessment.

For the purpose of this Section 10 is referred to as the "**Agreed Purpose**".

10.2 Responsibilities

SEAI and each BER/DEC assessor is responsible for complying with all the obligations imposed on it as a Controller under Data Protection Law with respect to its processing of the Scheme Data.

In particular, each BER/DEC assessor shall be responsible for complying with Data Protection Law in respect of the processing of Scheme Data from the point of collection of such Scheme Data up until the point which it is submitted to a Relevant System.

Following the submission of the Scheme Data to a Relevant System, SEAI shall be responsible for ensuring that any further processing by it of the Scheme Data shall be in accordance with Data Protection Law.

10.3 Purpose limitation

SEAI and each BER/DEC assessor shall process the Scheme Data only for their respective identified purposes within the Agreed Purpose and any other purposes that are compatible with the Agreed Purpose, or as otherwise required by applicable law.

10.4 Security Requirements

SEAI and each BER/DEC assessor shall implement appropriate technical and organisational security measures to provide for the safe and secure storage and transfer of the Scheme Data as part of the BER/DEC assessment process.

A BER/DEC assessor is required to abide by the following confidentiality and data protection requirements:

- a) to keep confidential the identity of clients and BER/DEC records. BER/DEC assessors and their Principals as appropriate, shall adopt and maintain appropriate security measures (including technical security measures and organisational measures) in dealing with personal data controlled or jointly controlled by them. These measures must be sufficient to protect against unauthorised or accidental access, loss, alteration, disclosure or destruction of such data, and against all other unlawful forms of processing; and
- b) the limited exceptions to these requirements are disclosure of information required by law and disclosure to SEAI or its authorised officers. BER/DEC assessors are not permitted to make any disclosures to other parties except where required to do so by law.

10.5 Transparency

A BER/DEC assessor shall be primarily responsible for providing information to BER/DEC clients in respect of their data protection rights in the manner described by SEAI in this Code. In particular, the BER/DEC assessor shall provide a copy of the BER Privacy Notice and other information as may be necessary or otherwise appropriate for such BER/DEC clients to understand the operation and administration of the BER/DEC scheme and the essence of the responsibilities of SEAI and each BER/DEC assessor in respect of Scheme Data as provided for in this Section 10.

The BER/DEC assessor shall act as the primary contact point for BER/DEC clients in respect of data protection matters (including the exercise of their data protection rights) up until such time as the BER/DEC assessor has uploaded the Scheme Data into the Relevant System.

Once the Scheme Data has been uploaded to the Relevant System, SEAI shall act as the primary contact for BER/DEC clients in respect of data protection matters (including the exercise of their data protection rights) and each BER/DEC assessor shall direct any queries received from a BER/DEC client in respect of the processing of the Scheme Data to SEAI as soon as possible.

10.6 Retention & Deletion

BER/DEC assessors shall ensure that any Scheme Data is retained for 10 years in order to comply with the requirements of this Code, set out in Section 8. This includes retaining Scheme Data for the applicable retention periods, both when registered and after permanently ceasing to be registered as BER/DEC assessor, in order to;

- a) fulfil obligations under Data Protection Law to respond to data subject requests;
- b) to respond to monitoring and compliance processes carried out by SEAI in accordance with this Code and the QADP; and
- c) where relevant, upon ceasing to be registered as a BER/DEC assessor, transfer any relevant Scheme Data to the Principal, who shall retain and maintain by records on behalf of the BER/DEC assessor.

10.7 Data Subject Rights

SEAI and each BER/DEC assessor agrees to comply with their obligations under Data Protection Law where a BER/DEC client exercises their rights under Data Protection Law in respect of the Scheme Data (for the purpose of this Section 10 referred to as a **"Data Subject Request"**).

As between SEAI and each BER/DEC assessor, the following arrangement shall apply in respect of Data Subject Requests:

- a) where a Data Subject Request in respect of Scheme Data is received by a BER/DEC assessor prior to the data being uploaded to the Relevant System, the BER/DEC assessor shall be responsible for responding to the relevant Data Subject Request in line with Data Protection Law;
- b) where a Data Subject Request in respect of Scheme Data is received after the data has been uploaded to the Relevant System, SEAI shall be responsible for responding to the relevant Data Subject Request in line with Data Protection Law; and
- c) where a Data Subject Request in respect of Scheme Data is received by a BER/DEC assessor after the data has been uploaded to the Relevant System, it shall promptly communicate this request to SEAI and provide all reasonable assistance needed by SEAI to comply with the Data Subject Request.

10.8 BER/DEC Assessor Assistance

Each BER/DEC assessor shall:

- a) provide all reasonable assistance required by SEAI in complying with all applicable requirements of Data Protection Law in respect of the Scheme Data which has been uploaded to the Relevant System;
- b) provide data subjects with a copy of the BER Privacy Notice available on SEAI's website; and
- c) notify SEAI without undue delay on becoming aware of any breach of Data Protection Law with respect to the Scheme Data within its possession.

10.9 Disclosure of Scheme Data

The Scheme Data provided to SEAI will be used primarily to facilitate the administration of the BER/DEC Scheme. Scheme Data and/or other information received from BER/DEC assessors may be shared with certain parties in certain circumstances, as further detailed in the SEAI Building Energy Rating (BER) and Display Energy Certificates (DEC) Programme Privacy Notice.

BER/DEC assessors should not, without the permission of SEAI, disclose Scheme Data to any third party not directly involved in the administration of the BER/DEC Scheme. A BER/DEC assessor may engage processors in connection with the collection, storage or transmission of the Scheme Data into the Relevant System where it determines that it is necessary for the processing of the Scheme Data and it shall ensure that it does so in a manner compliant with Data Protection Law.

11. Client Service, Independence and Production of Prior Written Quotes for Assessment related Work

A BER/DEC assessor shall manage their affairs to ensure that a high level of service is delivered to their clients, and that the BER/DEC assessor's conduct with clients will always be in a professional manner. Specifically, a BER/DEC assessor shall manage their workload and office support services to ensure that he or she is, within reason, accessible during normal working hours and all correspondence is responded to within a reasonable timeframe, typically no more than three working days unless the BER/DEC assessor has made an alternative arrangement with the client in writing.

In carrying out their duties and obligations under the Regulations and this Code, BER/DEC assessors shall always act in an independent and transparent manner.

Prior to commencing any work for clients relating to an assessment or this Code, a BER/DEC assessor is required to provide in writing to the client:

- a) a description of the proposed services;
- b) a quotation of the proposed cost (including VAT and expenses) for such services including all details of any circumstances where the client may incur additional costs, VAT or expenses; and
- c) a disclosure of all relevant business interests as described below.

To assist BER/DEC assessors in discharging this obligation, a sample letter of engagement is available on the SEAI's website.

In respect of **(b)** above, the quotation referred to must be clear to the client and must also set out details of the BER/DEC assessor's Principal where the BER/DEC assessor forms part of a business undertaking. Only the BER/DEC assessor(s) identified by name in the quotation may carry out the services referred to therein. Where the BER/DEC assessor or the business undertaking which he or she forms part of is part of any network or association of BER/DEC assessors (including any franchise networks), then the quotation must make explicit reference to such network or association.

The BER/DEC assessor must not commence any work relating to an assessment or this Code without the client's explicit acceptance of the BER/DEC assessor's quotation referred to above and SEAI recommends that such

client acceptance be in writing, except in cases where it is impractical to do so.

The BER/DEC assessor must notify the building owner in cases where the BER/DEC assessor is unable to provide the building owner with a full BER/DEC service.

In respect of **(c)** above, a BER/DEC assessor must carry out assessments independently of all other suppliers or installers of energy related products or services and must be engaged directly by the building owner. A BER/DEC assessor must not offer services as part of a larger project offering.

In order to ensure transparency, at the time of offering BER/DEC services, BER/DEC assessors must disclose to clients any and all direct or indirect commercial connections which they or a Connected Person may have to manufacturers, suppliers or installers of energy related products or services, or other third parties providing consulting services for any such manufacturers, suppliers or installers. All BER/DEC assessors must provide a BER/DEC assessors Declaration of Interest Form or equivalent to clients which discloses any such connections. To assist BER/DEC assessors in discharging this obligation, a template Declaration of Interest Form is available on the SEAI website.

With reference to Section 6 of this Code, BER/DEC assessors are prohibited from carrying out a BER/DEC assessment on a building where they would be assessing energy improvement works carried out by him/her or a Connected Person within the preceding 12 months.

12. Charges and Levies for BER/DEC Assessments

The amount charged by a BER/DEC assessor for their services is a matter for agreement between the BER/DEC assessor and the client. To the extent permitted by law, SEAI may, at its discretion, set out guidance to the market regarding typical fees that are charged by BER/DEC assessors for particular kinds of assignments.

Where a BER/DEC assessor is employed by a Principal, and is remunerated for BER/DEC assessment services by the Principal, it is the responsibility of the BER/DEC assessor and their Principal to ensure that the remuneration for such BER/DEC assessment services paid to the BER/DEC assessor is adequate to ensure that each assessment can be completed in an accurate and complete manner, and to the highest levels of quality.

Every BER/DEC assessor is required to pay a levy to SEAI, as set out in the SEAI Schedule of Fees and Levies, available on SEAI's website, for each and every BER/DEC assessment submitted to SEAI for publication as a BER/DEC Certificate on the appropriate Register. This levy is in addition to the BER/DEC assessor registration fees charged on initial registration or subsequent registration renewal. The levy referred to in this paragraph must be paid in a timely manner by the BER/DEC assessor, or their Principal as appropriate, and in accordance with SEAI's levy payment and credit control policy which SEAI may, acting reasonably, update from time to time. SEAI may refuse to issue a BER certificate, a provisional BER certificate or DEC, as the case may be, until such levy has been paid.

SEAI recommends that all fees quoted to their clients for their services be inclusive of the SEAI levy for registration of the BER/DEC in question.

SEAI shall publish the registration and renewal charges and levies referred to in this Section 12 on its website and may vary the registration and renewal charges and levies in accordance with the Regulations. SEAI shall notify BER/DEC assessors in advance of any changes to these charges and levies.

Levies and registration and renewal charges may be paid by a BER /DEC assessor's Principal, where applicable. Any charges and levies which remain unpaid may be recoverable as a contract debt against the Principal and/or the BER/DEC assessor.

13. Advertising and Sales Promotion

In relation to advertising and sales promotion, a BER/DEC assessor, and their Principal (where relevant) shall ensure that their advertising and promotion material complies with all relevant legislation and applicable codes including the Consumer Protection Act 2007, the EC (Misleading and Comparative Marketing Communications) Regulations 2007 and the Code of Standards for Advertising, Promotion and Direct Marketing in Ireland published by the Advertising Standards Authority for Ireland⁴.

Furthermore, BER/DEC assessors shall ensure that no representations made by them or their Principals, as appropriate, conflict with or compromise the intent or integrity of the BER Scheme or the independence of the BER/DEC assessment process.

A BER/DEC assessor and their Principal (where relevant) may not use SEAI's corporate logo on any publications or in any visual medium in respect of the BER/DEC Scheme. This includes but is not limited to advertising, (print, electronic or broadcast), printed brochures, flyers, direct mail, retail point of sale materials, web or online content, and telephone directories.

No reference shall be made to SEAI that may imply any endorsement, approval, or specific partnership between SEAI and the BER/DEC assessor and/or their Principal. A Registered BER/DEC assessor may indicate in their marketing materials that they have been registered by SEAI as a BER/DEC assessor. However, as noted in Section 2, if a person is not registered or their registration has lapsed, been suspended, or terminated, it is an offence to represent him/herself as or purport to be a registered BER/DEC assessor.

14. Use of Technology Resources

Software tools may be provided or recommended by SEAI to BER/DEC assessors for the purposes of calculating BERs/DECs and or complying with the Regulations, mainly DEAP, SBEM, NAS, NDNAS and/or other software tools approved by SEAI. In some cases, the tools may also be used for the purpose of showing conformity with certain other legal provisions such as Part L of the Building Regulations (Part L Amendment) Regulations⁵ or to provide additional consultancy services to clients, such as calculations on the effectiveness of alternative designs and specifications. Any such additional consultancy services are a private matter between the BER/DEC assessor and the client and are outside the remit of this Scheme.

A Registered BER/DEC assessor, and their Principal, as appropriate, are provided with a limited access account to the prescribed administration system which records each BER/DEC, the assessment data file and other related information. The BER/DEC assessor, and their Principal where appropriate, are responsible for protecting their access credentials to the relevant systems (DEAP, SBEM, NAS, NDNAS and/or other software tools as approved by SEAI) and are responsible for any unauthorised use of their access credentials.

Use of the above-mentioned software tools and relevant systems by BER/DEC assessors shall be strictly subject to any terms and conditions of use which are specified by SEAI, all such terms to be published on the website and available for review.

15. Monitoring and Compliance

SEAI shall engage, as a matter of routine, in monitoring and auditing activities to verify compliance by registered BER/DEC assessors and/or their Principals, where applicable, with legislative requirements including the Regulations, this Code, the QADP, and other directions issued to BER/DEC assessors in accordance with the

⁴ The ASAI Code may be found at <https://adstandards.ie/>

⁵ S.I. No. 259 of 2008 and S.I. No. 259 of 2011

Regulations. These activities shall also provide a basis upon which to monitor the effectiveness of the Scheme, to protect the integrity of the Scheme and to ensure continual improvement of the Scheme. The audit system and its processes are set out in more detail in the QADP. BER/DEC assessors are required to follow and comply with the systems, procedures and policies set out in the QADP and are required to familiarise themselves with this document.

Non-compliance with the Regulations, this Code, the QADP or directions issued in accordance with the Regulations may result in disciplinary action up to and including termination of registration, in accordance with the QADP. Any such non-compliances and/or audit outcomes may be shared with a BER assessor's Principal, where applicable.

A BER/DEC assessor is required to co-operate with SEAI to ensure that audits are carried out expeditiously and thoroughly. A BER/DEC assessor and/or their Principal must:

- respond to an audit request within three days;
- facilitate an audit at a premises or at the site of the relevant building, where requested, within 21 days of notification of an audit request;
- respond promptly to e-mails and telephone calls from SEAI's auditors;
- provide such information and documentation as may be required by the audit team within a specified period and at the BER/DEC assessor's own expense, including providing sufficient information to support the audit response by the BER/DEC assessor;
- make themselves (or, by agreement with SEAI's audit team, a competent representative) available at the appointed premises to review files related to any or all assessments carried out under the remit of the BER/DEC assessor and to review information and documentation and answer any questions SEAI's audit team may have; and
- arrange for site access where this is required by SEAI for audit purposes.

Audits may be carried out at the premises of SEAI or its agents, the BER/DEC assessor, their Principal, at the site(s) where the relevant building(s) are located and/or at the premises where the specifications and plans for the building are available. In cases where the audit is to be carried out at the premises of the BER/DEC assessor, their Principal and/or at the site of the relevant building(s) and/or at the premises where the specifications and plans for the building are available, SEAI's auditors shall normally advise the BER/DEC assessor or their Principal at least three working days before commencing the audit. However, SEAI reserves the right, in certain circumstances, to carry out audits and inspections without any prior notice to the BER/DEC assessor or their Principal.

The audit process and response times are set out in the QADP. The Principal response times required to be adhered to by BER/DEC assessors as part of this process are:

- facilitation of audits to take place within a period of 21 days from the date of notification of an audit request;
- the assessor may seek a review of the findings of the audit by SEAI within 14 days of the date of issue of the audit report.

Selection of BER/DEC assessors for audit is on both a targeted and random basis with due consideration of risks associated with the BER/DEC assessment processes. SEAI may also carry out routine follow up audits to consider whether findings from previous audits have been adequately resolved. SEAI may require BER/DEC Assessors to facilitate accompanied audits in instances where such assessors are recently registered, or in circumstances defined in its QADP. In addition, SEAI may from time-to-time under its QADP require BER/DEC assessors to participate in mentoring visits arranged by its auditors to facilitate further training. Selection of a BER/DEC assessor for audit should not be interpreted as connoting any prior presumption by SEAI of there being error / non-compliance with the relevant BER/DEC technical methodologies, this Code, or the Regulations on the part of the BER/DEC assessor concerned.

Where SEAI identifies errors, omissions, or non-compliance by a BER/DEC assessor with any procedures, directions, this Code, or the Regulations, SEAI may issue specific directions to correct, to identify similar, and/or to avoid a recurrence of, such errors, omissions, or non-compliance under its. Disciplinary action resulting from audit findings may also arise under these procedures.

15.1 Monitoring and Compliance of Domestic BER Assessments in DEAP

Uploading to DEAP allows SEAI, in its capacity as the Issuing Authority under the Regulations, to monitor the uploaded domestic BER assessment data directly. Once selected for audit, a BER assessor shall receive notice that their domestic BER assessment has been selected for inspection in accordance with the process referred to above and set out in more detail in the QADP.

16. Appeals, Complaints and Disputes

If any dispute arises between a BER/DEC assessor and their client, the relevant building owner, SEAI or a third party, the BER/DEC assessor and/or their Principal is responsible for taking all reasonable steps to meet with the relevant parties and to endeavour to find a resolution. SEAI has procedures to deal with complaints, disputes and appeals and copies of these procedures are available on SEAI's website or from SEAI, on request.

17. Registers Managed by SEAI or its Agents

SEAI, directly or through appointed agents or contractors, has responsibility under the Regulations to establish, operate and maintain the following:

- a) a BER Register comprising of BER certificates, provisional BER certificates, advisory reports, BER data files and related data or documentation;
- b) a Register of BER assessors registered by SEAI;
- c) a DEC Register comprising of DEC certificates, advisory reports, DEC data files and related data or Documentation; and
- d) a Register of DEC assessors registered by SEAI.

Extracts from the BER/DEC Registers shall, in accordance with the Regulations, be open to public inspection on a restricted basis on the internet or during normal office hours, at the offices of SEAI.

Extracts from the Registers of BER/DEC assessors shall also, in accordance with the Regulations, be open to public inspection online and BER/DEC assessors agree to publication by SEAI in the Registers of BER/DEC assessors of their name, Principal's name (if any), place of business, contact details and, in respect of BER Assessors, the designated class or classes of buildings to which their BER registration applies.

Other than the above, a BER/DEC data file or other extract from a register relating to a BER/DEC assessment for a particular building shall normally only be made available to:

- a) the BER/DEC assessor that carried out the relevant BER/DEC assessment, or their then Principal; or
- b) a BER/DEC assessor undertaking any subsequent BER/DEC assessment of the relevant building, or their Principal; or
- c) the relevant owner of the building, or an agent acting on behalf of the owner, via a BER/DEC assessor.

18. Conformance to Building Regulations Part L

Certain BER/DEC software tools recommended and/or provided by SEAI may in some cases be used to

demonstrate a building's conformance with specific aspects of Part L of the Building Regulations referred to in Section 14 above.

If the Building Regulations Part L applies to the building being rated and the BER/DEC assessor finds that it does not conform to the requirements of Part L, then the BER/DEC Assessor is obliged to notify to the client in writing which elements of the design do not conform to these Regulations.

19. Engagement with the Building Owner, Client and SEAI or its Agents

A BER/DEC assessor must arrange in advance with the client or client's representative the assessment date and time for the completion of the assessment and if relevant ensure that tenants have been notified about the assessment visit.

A BER/DEC assessor must identify themselves to the person at the property at the time of the assessment and show to the client or client's representative before entering the building:

- a) a copy of their BER/DEC Certificate of Registration, and
- b) valid photo identification (Driver's Licence or Passport).

A BER/DEC assessor should not enter a building if invited solely by a child or vulnerable person into a building.

It is expected that all BER/DEC assessor's interactions with SEAI and its agents are conducted in a professional manner. BER/DEC assessors should be aware that any instances of inappropriate behaviour will not be tolerated and may result in a further investigation of the BER/DEC assessor's conduct and where appropriate, disciplinary action as set out in the QADP.

20. Whistle-Blower Policy

SEAI requires all assessors to identify to SEAI any instances where they are being encouraged by others to act outside this Code or other directions, or indeed where they have information regarding others who are acting improperly.

All BER/DEC assessors are thus directed to notify SEAI immediately, via the BER Helpdesk, in instances where they are:

- a) requested to publish a BER/DEC where it has not been possible to complete the BER/DEC assessment fully in accordance with the Regulations, SEAI requirements and guidance; or
- b) aware of published BERs/DECs which were not completed fully in accordance with the Regulations, SEAI requirements and guidance; or
- c) any other instances where they have evidence that a BER/DEC assessor has not acted fully in compliance with the Regulations and other BER/DEC Scheme requirements.

All BER/DEC assessors should be assured, that any such instances identified to SEAI will be treated in the utmost confidence, save as provided for by law, and that their assistance will ultimately contribute to the improved professionalism and integrity of the scheme.

Where BER/DEC assessors act on behalf of a Principal, assessors are reminded that they must be cognisant of the provisions of the Protected Disclosures Act 2014, and their employer's relevant procedures for making protected disclosures in this regard.

21. Amendments to the Code of Practice and Directions

SEAI, in its capacity as the Issuing Authority under the Regulations, has the right, from time to time, to issue directions to BER/DEC assessors in relation to the matters set out in Regulation 17(1) of the Regulations, including codes of practice to be respected by BER/DEC assessors, such as this Code. As a result, SEAI reserves the right to review and amend this Code and may also issue other directions to BER/DEC assessors, in accordance with the Regulations.

BER/DEC assessors shall be made aware of any proposed amendments to the Code of Practice by email or by way of an update to the Code displayed on SEAI's website. SEAI may invite BER/DEC assessors to submit comments on or provide a response to the proposed amendments. For the most up to date version of the Code, which is binding on all BER/DEC assessors pursuant to Regulation 17(2) of the Regulations, BER/DEC assessors should visit SEAI's website.

22. Freedom of Information

The BER/DEC assessor understands that SEAI is subject to the requirements of the Freedom of Information Act 2014 ("**FOIA**") and European Communities (Access to Information on the Environment) Regulations 2007 to 2014 ("**AIE**"), (each as amended) and shall assist and co-operate with SEAI to enable SEAI to comply with its information disclosure obligations.

w: www.seai.ie
e: info@seai.ie
t: 01 808210



Rialtas na hÉireann
Government of Ireland