

# Quality Assurance System & Disciplinary Procedures (QADP)

for

Building Energy Rating (BER) and Display Energy  
Certificates (DEC)

V2.0



## Change Log

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V1.0	Quality Assurance System & Disciplinary Procedures (QADP) document	August 2016
V2.0	Updated error sizing for low energy dwellings and severity outcome for non-response audits.	June 2023

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## 1. Nature of Quality Assurance System and Disciplinary Procedure

The quality-of-service delivery by Building Energy Rating (BER) assessors and Display Energy Certificate (DEC) assessors is central to the reputation and effectiveness of the BER/DEC Scheme, both for the purposes of fulfilling legal obligations on building owners and of stimulating action to improve the energy performance of buildings. That quality of service has two key dimensions: competence and conduct.

As the Issuing Authority responsible for the BER/DEC Scheme, and as part of an overall suite of provisions governing the registration and performance of BER/DEC assessors (see the European Union (Energy Performance of Buildings) Regulations 2012, 5.1. No. 243 of 2012 (the "**2012 Regulations**"), SEAI has put in place a quality assurance system for BER/DEC assessors, and a related disciplinary procedure pursuant to its powers under the 2012 Regulations.

In accordance with Regulation 17 of the 2012 Regulations and further to Section 7 of the Code of Practice for BER/DEC assessors (the "Code of Practice"), SEAI directs that BER/DEC assessors follow and comply with the systems, procedures and policies set out in this document.

Through this system and procedure, SEAI will maintain a strong focus on monitoring the technical performance and professional conduct of BER/DEC assessors. This policy is designed to serve the interests of clients for BER/DEC services and of all reputable BER/DEC assessors. The systems, procedures and policies set out in this document are complementary to Regulation 16 of the 2012 Regulations and shall not be applied or interpreted in a manner which limits or restricts the rights of BER/DEC assessors and SEAI pursuant to the 2012 Regulations.

This document outlines the key elements and processes of the Quality Assurance System and Disciplinary Procedure for BER/DEC assessors. It applies equally to BER/DEC assessors operating in either the domestic, non-domestic or public buildings sector.

For the purpose of this document, registration includes all registrations held by a BER/DEC assessor. Penalty points are considered in aggregate for all Domestic BER, Non-Domestic BER and DEC assessor registrations.

Words and expressions used in this document shall, unless the contrary is explicitly stated, have the same meaning as those words and expressions have in the Code of Practice and the 2012 Regulations.

## 2. Quality Assurance System

### 2.1 Overview

Within the BER/DEC Scheme, the overall approach by SEAI to the quality assurance of BER/DEC assessors and assessments consists of a combination of entry/upstream measures (e.g. training and the national examination), in-line delivery measures (e.g. the validation rules on the BER/DEC Register and downstream/feedback measures). The focus of this document is solely on downstream/ feedback measures, centred on administration of a regime of audits (the "**BER/DEC Quality Assurance System**" or the "**System**").

The core role of the BER/DEC Quality Assurance System is to facilitate a quality assessment service in the marketplace, by continuously monitoring assessment quality and ensuring widespread operational compliance by BER/DEC assessors with the prevailing Code of Practice, the 2012 Regulations and the relevant BER/DEC technical methodologies i.e. the dwellings, non-domestic energy and DEC assessment procedures (also known as DEAP, NEAP and DEC). The System will thus assist BER/DEC assessors in the effective discharge of their

duties and to ensure the accuracy of assessments.

In conjunction with this core role, other objectives of the System include:

- Improving the knowledge base of BER/DEC assessors by providing feedback and direction on technical findings on an individual or collective basis, in respect of common clarification issues, sources of error or misunderstanding;
- Identifying potential priority areas for additional focus in the training provided to BER/DEC assessors;
- Identifying possible requirements for adjusting the applicable automated in-line validation boundary values when uploading BER/DEC data files to the BER/DEC Register;
- Informing the decision-making process on selection of BER/DEC assessors/assessments for more detailed or intensive auditing; and
- Informing the decision-making process on corrective actions required, including, where appropriate, disciplinary action.

## 2.2 Audit Process

Auditing is a key tool through which quality control of BER/DEC assessors is implemented. The aim of the BER/DEC Audit Programme is to identify technical, procedural or system issues or errors in a timely manner so that:

- Any issues or errors identified can be corrected or other appropriate action taken in relation to published assessments;
- Such issues or errors are avoided in future through feedback directly to the BER/DEC assessor concerned and to other BER/DEC assessors as appropriate through the relevant communication channels; and
- Such issues or errors are avoided in future through disciplinary action as appropriate.

The audit process involves the planning, co-ordinating and conducting of audits, and reporting and acting on audit findings. Audits are carried out on both BER/DEC assessors and BER/DEC assessments to ensure compliance of the BER/DEC assessor with the relevant BER/DEC technical methodologies, the Code of Practice and the 2012 Regulations.

All registered BER/DEC assessors are subject to audit, and SEAI reserves the right to audit an assessor during a period of suspension of his/her registration. In addition, all published/ currently valid BER/DEC assessments are subject to audit, regardless of the date of publication.

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 other circumstances defined in this Quality Assurance System and Disciplinary Procedure. In addition, SEAI may from time to time under its Quality Assurance System and Disciplinary Procedure require BER/DEC assessors to participate in mentoring visits arranged by its auditors.

Every BER Assessor can expect to receive:

- At least one Data Review audit per year for which a typical response should not exceed 30 minutes;
- At least one Desk Review or Documentation and Practice Audit per year for which a typical response is 1 hour for the former or 2 hours for the latter;
- Additional auditing on a frequency reflecting the number of BERs published, risk profiling, complaints

or other indicators

Selection of a BER/DEC assessor for audit should not be interpreted as connoting any prior presumption by SEAI of there being non-compliance with the relevant BER/DEC technical methodology, the Code of Practice or the 2012 Regulations on the part of the BER/DEC assessor concerned.

Audits may be carried out at the premises of SEAI or its agents, the BER/DEC assessor, his or her principal, at the site(s) where the relevant building(s) is/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, his or her 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 his/her 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 his/her principal.

The auditing process currently involves three types of audits, which are detailed in Section 2.3. Other types of audits may be added as required.

The Code of Practice for BER/DEC assessors requires that BER/DEC assessment data should only be submitted to SEAI if all the associated records, data and/or documentation specified in Section 8 of the Code of Practice is up to date, complete and immediately available for inspection. Therefore, the audit process assumes that this information is available at the time when an audit selection is made and notified to a BER/DEC assessor.

This includes:

- BER/DEC certificates
- Provisional BER certificates
- Advisory Reports accompanying BER/DEC certificates or provisional BER certificates
- BER/DEC data files constituting the output of BER/DEC assessments;
- All supporting drawings, data and other documentation supporting the BER/DEC assessments, including;
  - Drawings and calculations informing the assessment;
  - DEAP/NEAP/DEC Survey form
  - Unique photographic evidence from the premises visited, as specified in the Survey Guide
  - Declaration of Interest Forms.

Where non-compliances are identified by audit, this may lead to appropriate disciplinary action in accordance with Section 3 below.

## 2.3 Outline of Audit Types

### 2.3.1 Data Reviews Audits

Data Review Audits are high volume, desk-based, audits on single BER/DEC assessments. For such audits, requests are sent by email to BER/DEC assessors to check their compliance with a particular element of the Code of Practice and/or the relevant BER/DEC technical methodologies.

### 2.3.2 Desk Review Audits

Desk Review Audits involve medium volume, desk-based, audits of a number of BER/DEC assessments carried out by one BER/DEC assessor. Such audits may require provision of evidence/substantiation by a BER/DEC assessor in support of entries made in the BER/DEC data file for one or more BER/DEC assessment(s).

### 2.3.3 Documentation and Practice Audits

Documentation and Practice Audits are low volume, intensive, audits on BER/DEC assessors, entailing detailed inspection at a BER/DEC assessor's offices and/or at the site of a building or buildings which have been the subject of a BER/DEC assessment. Documentation and Practice Audits are aimed at reviewing a BER/DEC assessor's compliance with both the relevant BER/DEC technical methodologies and the Code of Practice. Such a process will comprehensively audit all relevant aspects of a BER/DEC assessor's BER/DEC activities. A number of the BER/DEC assessor's assessments will normally be audited to determine if any error patterns exist.

Documentation and Practice audits are categorised into three sub-types, namely:

- Documentation and Practice Audits (Office Based);
- Documentation and Practice Audits (Virtual); and
- Documentation and Practice Audits (With Site Inspection).

#### 2.3.3.1 Documentation and Practice Audit (Office Based and Virtual)

To audit compliance with both the Code of Practice and the relevant BER/DEC technical methodologies, SEAI selects a number of published BER/DEC assessments which have been carried out by a BER/DEC assessor. The auditor will initially review the data file for each of the BER/DEC assessments selected before meeting with the BER/DEC assessor. At the time of meeting, source data is examined to verify substantiation of entries in the data file. Together, the auditor and the BER/DEC assessor will review the key values input into the BER/DEC data files.

#### 2.3.3.2 Documentation and Practice Audit (With Site Inspection)

This audit type is procedurally similar to the corresponding office-based audit, except that it requires the auditor to carry out an inspection of the building or buildings which have been the subject of a BER/DEC assessment.

This type of audit may be carried out using one of three methods:

- The auditor accompanies the BER/DEC assessor during an on-site assessment and verifies compliance with the Code of Practice and the relevant BER/DEC technical methodologies including the Survey Guide.
- The auditor accompanies the BER/DEC assessor on a re-visit to a building after an assessment has been published to verify compliance with the Code of Practice and the relevant BER/DEC technical methodologies including the Survey Guide.
- The auditor, unaccompanied by the BER/DEC assessor revisits a building after an assessment has been published to verify compliance with the Code of Practice and the relevant BER/DEC technical methodologies including the Survey Guide.

## 2.4 Mentoring Visits

SEAI may from time to time require BER/DEC assessors to participate in mentoring visits arranged by its auditors, in circumstances which include:

- BER/DEC assessors recently registered for the first time;
- BER/DEC assessors had not carried out assessments for a period of more than 12 months;
- BER/DEC assessors subject to suspension.

Mentoring visits will be carried out in similar fashion to Documentation and Practice Audits with Site Inspection,

whereby the auditor accompanies the BER/DEC assessor during an on-site assessment and verifies compliance with the Code of Practice and the relevant BER/DEC technical methodologies including the Survey Guide.

## 2.5 Classification System for Audit Findings of Non-Compliance

An audit finding of non-compliance may arise from a breach of the 2012 Regulations, the Code of Practice and/or the relevant BER/DEC technical methodologies. The severity of a finding of non-compliance is classified as follows:

- **Severity 1:** A non-compliance which has a high potential to compromise the fundamental integrity of the BER/DEC scheme, damage public confidence or otherwise negatively impact the reputation of the scheme.
- **Severity 2:** A non-compliance which is significant but, while not acceptable, is unlikely, on its own, to affect the reputation of the BER/DEC scheme.
- **Severity 3:** A non-compliance which is less significant and would not affect the reputation of the BER/DEC Scheme.

Findings of non-compliance may lead to the accumulation of penalty points and/or revocation of the relevant BER/DEC data file(s) as follows, in accordance with Section 3 below:

Severity of non-compliance	Penalty points	Revocation of BER/DEC
Severity 1	3	Y
Severity 1 (Advisory)	0	Y
Severity 2	2	Y
Severity 2 (Advisory)	0	Y
Severity 3	1	N
Severity 3 with Grade Change	1	Y
Severity 3 (Advisory)	0	N

Technical non-compliances for Domestic and Non-domestic BER/DECs are classified by reference to the Technical Error Classification Matrices, as may be updated from time to time, which are available within [Appendix B](#) of this document. These technical error classification matrices provide a transparent, fair and objective means by which technical non-compliances with the BER/DEC technical methodologies, the Code of Practice and the 2012 Regulations are evaluated. This system aims transparently to document how SEAI will exercise its discretionary power to take disciplinary action pursuant to Regulation 16(11) of the 2012 Regulations.

In addition, the following findings of non-compliance will be classified as Advisory only, e.g. no penalty points will accrue to the assessor:

- Findings of non-compliances identified by audit during a period of suspension of an assessor's registration; and
- Findings of non-compliances identified in respect of BER/DEC assessments published outside the previous 3-year period.

However, SEAI reserves its right to take further disciplinary action as a result of these findings of Advisory non-



compliance in appropriate circumstances pursuant to Regulation 16(11) of the 2012 Regulations, including to revoke the relevant BER/DEC data file(s) pursuant to Regulations 23 and 24 of the 2012 Regulations.

## 2.6 Audit Report

On completion of an audit, all findings are formally notified to the BER/DEC assessor in writing in an audit report issued to the BER/DEC assessor's registered email address.

In accordance with the disciplinary process set out in Section 3 below, all audit findings of non-compliance will be set out in the audit report and filed on the BER/DEC assessor's record. 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.

## 2.7 Response Time to Audit Request Notifications

It is required that a BER/DEC assessor respond to an audit request within 3 days and facilitates an audit to take place within 21 days from the issuing of notification of an audit request. Failure to facilitate an audit to take place within 21 days will be treated as a non-compliance by the BER/DEC assessor with Section 15 of the Code of Practice and may incur summary suspension.

# 3. Disciplinary Process

## 3.1 Process Overview

The BER/DEC Scheme is governed by the 2012 Regulations, and rules pertaining to both technical competence (relevant BER/DEC technical methodologies) and behaviour (Code of Practice for BER/DEC assessors).

Pursuant to its powers under Regulation 16 and 17 of the 2012 Regulations, SEAI has put in place the following disciplinary process which is without prejudice to the statutory right of appeal of BER/DEC assessors provided for under the 2012 Regulations.

The objective basis for the disciplinary process is the classification of non-compliances on the basis of the seriousness of their impact on the integrity of the BER/DEC Scheme and the accuracy of the rating, as defined in Section 2.4 above.

As detailed above, findings of Severity 1 or Severity 1 (Advisory), Severity 2 or Severity 2 (Advisory) and Severity 3 with Grade Change non-compliance may lead to the revocation of the relevant BER/DEC data file(s) from NAS/NDNAS. (Refer to Section 3.2.)

Findings of non-compliance may also lead to the accumulation of penalty points. Depending on the penalty points accumulated by a BER/DEC assessor, SEAI may form an opinion that the BER/DEC assessor has ceased to be capable of performing his or her functions under the 2012 Regulations properly and efficiently. In these circumstances, SEAI may decide to take disciplinary action in the form of a decision to suspend and/or terminate the registration of a BER/DEC assessor in accordance with Regulation 16(11) of the 2012 Regulations. (Refer to Sections 3.3.1 and 3.3.2.)

Notwithstanding the points-based process of suspension / termination of registration, SEAI reserves the right, in exercising its authority pursuant to Regulation 16(11) of the 2012 Regulations, to suspend or terminate summarily the registration of a BER/DEC assessor in circumstances involving serious or persistent non-compliance with the Code of Practice, the 2012 Regulations or the relevant BER/DEC technical methodologies.

(Refer to Sections 3.3.3.)

### 3.2 Revocation of Data Files and BER/DEC Certificates

Under Regulations 23 and 24 of the 2012 Regulations, SEAI may revoke a BER/DEC data file for a building compiled by a BER/DEC assessor where it has reasonable grounds for believing that the BER/DEC data file was not completed or issued in accordance with the 2012 Regulations. This includes BER/DEC data files which were not completed or issued in accordance with the Code of Practice with which assessors are obliged to comply pursuant to Regulation 17(2) of the 2012 Regulations.

Reasonable grounds to revoke a BER/DEC data file may exist where an audit results in a finding of non-compliance of Severity 1 or Severity 1 (Advisory), Severity 2 or Severity 2 (Advisory), and/or where an audit results in a Grade Change to the BER/DEC rating, and/or where an audit results in a change from a minus to plus (and vice versa) BER/DEC rating.

Where a BER/DEC data file is revoked, any BER/DEC certificate, or provisional BER certificate where applicable, 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 or BER/DEC certificate, it will immediately notify the BER/DEC assessor of the date on which the BER/DEC report or BER/DEC certificate was revoked, the reason for the revocation and the address or other identifier of the building to which the revoked BER/DEC report or BER/DEC certificate relates. SEAI may in such instances require the BER/DEC assessor to obtain a signed confirmation from the BER/DEC client that he/she had been informed of the revocation and reasons for same.

Where SEAI revokes a BER/DEC data file or BER/DEC certificate, it may also demand, by notice in writing, the giving up by the owner of the building or by the owner's agent, to SEAI 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. This provision is without prejudice to SEAI's powers to correct BER/DEC certificates and accompanying advisory reports under Regulation 25(3) and (4) of the 2012 Regulations.

In addition to those express obligations imposed on BER/DEC assessors under the 2012 Regulations and notwithstanding the provisions of Regulations 23 and 24 of the 2012 Regulations, when a data file and associated BER/DEC certificate is revoked due to a Severity 1 or Severity 2 non-compliance or for other reasons, the BER/DEC assessor may be directed to do any or all of the following pursuant to Regulation 17(1)(h) of the 2012 Regulations:

Inform the BER/DEC client and other affected persons of the error and revocation;

- Request the BER/DEC client to destroy all printed copies of the revoked BER/DEC certificate and accompanying advisory report;
- Re-submit a BER/DEC data file with correct values;
- Re-submit the BER/DEC for publication, at the BER/DEC assessor's own expense; and/or
- Provide the BER/DEC client with the replacement BER/DEC certificate.

### 3.3 Disciplinary Action

Disciplinary action resulting from findings of non-compliance can apply to a BER/DEC assessment and/or a BER/DEC assessor.

### 3.3.1 Audit findings and penalty points

This Section 3.3.1 applies to disciplinary action which falls short of the suspension or termination of a BER/DEC assessor's registration under Regulation 16(11) of the 2012 Regulations. BER/DEC assessors should refer to Sections 3.3.2 and 3.3.3 below for details of suspension and termination of registration.

Where SEAI proposes to impose penalty point(s) resulting from (an) audit finding(s) of non-compliance or other criteria, it will formally notify the relevant BER/DEC assessor of its preliminary decision, the findings of the audit (where applicable), the proposed penalty points and reasons for same and the amount of penalty points recorded on the BER/DEC assessors record to date.

On receipt of that notification, a BER/DEC assessor has a non-statutory right to make submissions to SEAI, setting out any evidence or factors which demonstrate that SEAI's preliminary decision is incorrect. All such evidence or factors must be submitted to the SEAI within 14 days of the date of issue of that notification.

Where such submissions are received by SEAI within 14 days, the proposed penalty points for that audit will not be recorded on the BER/DEC assessor's record until the information so submitted has been considered and a final decision made by SEAI on the matter.

Where no submissions are received by SEAI within the above 14-day period, a final decision will be made to record the audit outcome on the BER/DEC assessor's record and to impose the penalty points, which shall take effect immediately from the date of that decision.

Where SEAI makes a final decision to impose penalty point(s) resulting from an audit finding of non-compliance or other criteria, it will formally notify the relevant BER/DEC assessor of the findings of the audit (where applicable), the penalty points imposed and reasons for same, the amount of penalty points recorded on the BER/DEC assessors record to date and disciplinary action taken.

A BER/DEC assessor's penalty points are recorded on his/her file following a final decision by SEAI on the matter. Penalty points will remain on an assessor's record for two years from the time the points are assigned by SEAI so as to enable SEAI to have regard to "all the circumstances of the case" in exercising its discretion under Regulation 16(11) of the 2012 Regulations to suspend or terminate the registration of a BER/DEC assessor. Points are expunged two years after their being added to the assessor's record.

SEAI may also decide to revoke the BER/DEC data file(s) in accordance with Section 3.2 above.

In instances where a BER/DEC assessor's aggregate penalty points are equal to or exceed 6 points, SEAI may require such assessors to attend specific training to address areas of non-compliance, technical misunderstanding and error.

### 3.3.2 Points based suspension or termination of registration

Where a BER/DEC assessor accumulates 10 or more penalty points resulting from audits or other criteria, SEAI will notify the BER/DEC assessor that it has formed a preliminary opinion that the BER/DEC assessor has ceased to be capable of properly and efficiently performing his or her functions under the 2012 Regulations and that the SEAI proposes to suspend or terminate the registration of the BER/DEC assessor pursuant to Article 16(11) (f) of the 2012 Regulations.

Suspension or termination of registration of a BER/DEC assessor, made under Regulation 16(11) of the 2012 Regulations, is determined as follows:

- The process of a 2-month suspension of registration will be commenced if a BER/DEC assessor's record shows **10 penalty points** or more accumulated within the previous 2-year period. Penalty points are removed from the BER/DEC assessor's record on completion of the suspension period, but the fact of suspension remains on the BER assessor's record.
- The process of a 6-month suspension of registration will be commenced if a BER/DEC assessor receives a second suspension within a 2-year period of the completion of an initial suspension.
- The process of termination of registration will be commenced if a BER/DEC assessor receives a third suspension of registration within a 2-year period of the completion of a second suspension.

SEAI will consider at the time of proposing suspension of a BER/DEC assessor's registration whether particular conditions should be imposed on the BER/DEC assessor concerned before the lifting of such proposed suspension. In the case of a proposed termination of registration, SEAI will consider, on a case-by-case basis, whether re-registration would be permitted and, if so, what conditions must be met to facilitate re-registration of such a person as a BER/DEC assessor.

Any such conditions will be included in the aforementioned notification of SEAI's preliminary opinion to the BER/DEC assessor, and may include requirements to:

- Attend mandatory workshop developed to address areas of noncompliance, technical misunderstanding and error;
- Facilitate an accompanied audit or mentoring visit(s).

On being notified that SEAI proposes to suspend or terminate his/her registration, the BER/DEC assessor has the non-statutory right to make submissions to SEAI, setting out any evidence or factors which demonstrate that the preliminary opinion formed by SEAI is incorrect. All such evidence or factors must be submitted to SEAI within 14 days of the date of issue of that notification.

Where such submissions are received by SEAI within 14 days of notification, the registration of the BER/DEC assessor will not be suspended or terminated (or recorded as such on the BER/DEC assessor's record) until the information so submitted has been considered and a final decision made by SEAI on the matter.

Where no submissions are received within the above 14-day period, a final decision will be made to suspend or terminate the registration of the BER/DEC assessor.

On making a final decision to suspend or terminate the registration of a BER/DEC assessor (which includes a final decision to suspend or terminate summarily the registration of a BER/DEC assessor, as described in the following paragraph 3.3.3), SEAI will formally notify the BER/DEC assessor, in writing, of its final decision, its reasons for doing so and the date on which the suspension or termination takes effect, which will be 14 days following the date of that notification. On expiry of this 14-day period, SEAI will note the fact and date of suspension or termination of registration in the Register(s) of BER/DEC assessors.

On being notified of SEAI's final decision to suspend or terminate his/her registration, the BER/DEC assessor has a statutory right, under Regulation 16(13) of the 2012 Regulations, to appeal SEAI's final decision not later than 14 days after receipt of that notification to the judge of the District Court within whose district the BER/DEC assessor principally carries out BER/DEC assessments. Such an appeal can be brought on the following grounds:

1. That the assessor is not the person on whom the suspension or termination should have been served; or
2. Any substantive or procedural non-compliance with the provisions of Regulation 16(11) of the 2012 Regulations.

Where an appeal is made to the District Court in accordance with Regulation 16(13), SEAI's final notice of suspension or termination shall stand suspended until the appeal is determined or withdrawn.

Where a relevant assessor had been subject to termination, the assessor may reapply for registration as a BER/DEC assessor only after a period of 24 months from the effective date of termination has expired.

Further details of the statutory appeals process can be found in the 2012 Regulations, which are available on SEAI's website at [www.SEAI.ie/ber](http://www.SEAI.ie/ber).

### 3.3.3 Summary suspension or termination of registration

Notwithstanding the above process, SEAI reserves the right, in exercising its authority pursuant to Regulation 16(11) of the 2012 Regulations, to suspend or terminate summarily the registration of a BER/DEC assessor in circumstances involving serious non-compliance with the Code of Practice, the 2012 Regulations or the relevant BER/DEC technical methodologies, on the following grounds:

- Failure by a BER/DEC assessor to attend a course of periodic training or mentoring if required by SEAI or to complete satisfactorily such a training course or mentoring period;
- Failure by a BER/DEC assessor to comply with a direction issued by SEAI under the 2012 Regulations;
- Failure by a BER assessor to carry out a BER assessment for BER purposes in a fit and proper manner, or to maintain or provide satisfactory data, documentation or records of any such assessment;
- Failure by the DEC assessor to carry out a DEC assessment for DEC purposes in a fit and proper manner, or to maintain or provide satisfactory data, documentation or records of any such assessment;
- The committing, or aiding or abetting the committing, by a BER/DEC assessor of an offence under the 2012 Regulations;
- The forming of an opinion by SEAI that a BER/DEC assessor has ceased to be capable of performing his or her functions under the 2012 Regulations properly and efficiently; or
- Failure by a BER/DEC assessor to comply with any procedural requirement as may be set out in a code of practice issued by SEAI under Regulation 17(1)(g).

Such circumstances involving serious non-compliance may include the following:

- Knowingly submitting false information in support of a BER/DEC;
- Systematic failure to ensure that a published BER/DEC is an accurate representation of the energy performance of the building;

- Carrying out a BER/DEC, clearly in breach of a BER/DEC assessor requirements to act in an independent manner or conducting a BER/DEC assessment on a building in which the BER/DEC assessor has a material financial interest in the outcome of the assessment;
- Failure to carry out an inspection on a new, existing or public building when conducting a BER/DEC Assessment;
- Undertaking works on published BERs/DECs as a suspended/deregistered BER/DEC assessor;
- Advertising and Sales Promotion which brings the integrity of the BER/DEC scheme into disrepute;
- Publishing BERs/DECs under another BER/DEC assessor's registration number;
- Failure to inform the client that a BER/DEC data file has been revoked in the National Administration System, if directed to do so by SEAI pursuant to Regulation 17(1)(h) of the 2012 Regulations;
- Carrying out BER/DEC assessments using procedures, methodologies and software not approved by SEAI; or
- Altering a printed copy of a BER/DEC certificate contrary to Regulation 25(1) of the 2012 Regulations.

However, where in SEAI's opinion, audit findings display systematic noncompliance with the BER Assessors Code of Practice with numerous breaches committed contemporaneously, SEAI may also consider summary suspension of an assessor and deregistration of their Principal where applicable. Examples of such breaches are set out in Appendix A, however SEAI are not limited to those.

Where, having regard to all the circumstances of the case, SEAI proposes to suspend or terminate summarily the registration of a BER/DEC assessor, it will formally notify the relevant BER/DEC assessor of its preliminary decision, the proposed disciplinary action and reasons for same.

On receipt of that notification, a BER/DEC assessor has a non-statutory right to make submissions directly to SEAI, setting out any evidence or factors which demonstrate that SEAI's preliminary decision is incorrect. All such evidence or factors must be submitted to the SEAI within 14 days of the date of issue of that notification and may only be related to the specific circumstances leading to the issue of a notification of suspension or termination - no new evidence that should have reasonably been available as part of SEAI's initial determination will be considered.

Where such submissions are received by SEAI within 14 days of notification, the registration of the BER/DEC assessor will not be summarily suspended or terminated (or recorded as such on the BER/DEC assessor's record) until the information so submitted has been considered and a final decision made by SEAI on the matter.

Where no submissions are received within the above 14-day period, a final decision will be made to suspend or terminate summarily the registration of the BER/DEC assessor.

On making a final decision to suspend or terminate summarily the registration of a BER/DEC assessor, SEAI will formally notify the BER/DEC assessor, in writing, of its final decision, its reasons for doing so and the date on which the suspension or termination takes effect, which will be 14 days following the

date of that notification. On expiry of this 14-day period, SEAI will note the fact and date of suspension or termination of registration in the Register(s) of BER/DEC assessors.

On being notified of SEAI's final decision to suspend or terminate summarily his/her registration, the BER/DEC assessor has a statutory right, under Regulation 16(13) of the 2012 Regulations, to appeal SEAI's final decision not later than 14 days after receipt of that notification to the judge of the District Court within whose district the BER/DEC assessor principally carries out BER/DEC assessments. Such an appeal can be brought on the following grounds:

1. That the assessor is not the person on whom the suspension or termination should have been served; or
2. Any substantive or procedural non-compliance with the provisions of Regulation 16(11) of the 2012 Regulations.

Where an appeal is made to the District Court in accordance with Regulation 16(13), SEAI's final notice of suspension or termination shall stand suspended until the appeal is determined or withdrawn.

Further details of the statutory appeals process can be found in the 2012 Regulations which are also available on SEAI's website at [www.SEAI.ie/ber](http://www.SEAI.ie/ber).

The period of summary suspension or termination of registration of a BER/DEC assessor, is determined as follows:

- The process of a 2-month summary suspension of registration will normally be commenced if a BER/DEC assessor's record shows no previous suspensions in the previous 2-year period. SEAI may however invoke a longer suspension period of 6 months or termination if SEAI deems the nature of non-compliance with the Code of Practice, the 2012 Regulations or the relevant BER/DEC technical methodologies to be of a significantly serious nature to warrant such a suspension period or termination.
- The process of a 6-month summary suspension of registration will normally be commenced if a BER/DEC assessor receives a second suspension within a 2-year period of the completion of an initial suspension. As noted above, SEAI may however invoke an immediate 6-month suspension period, or termination, if it deems the nature of non-compliance with the Code of Practice, the 2012 Regulations or the relevant BER/DEC technical methodologies to be of a significantly serious nature.

The process of termination of registration will be commenced if:

- A BER/DEC assessor receives a third suspension of registration within a 2-year period of the completion of a second suspension, or
- SEAI deems the nature of non-compliance with the Code of Practice, the 2012 Regulations or the relevant BER/DEC technical methodologies to be of a significantly serious nature to warrant immediate termination without prior suspension.

In the case of termination, a BER/DEC assessor may only re-apply to SEAI for registration as a BER/DEC assessor once a period of 24 months from the effective date of termination has expired.

### 3.3.4 Disciplinary Appeal Process Table

The following appeals process table demonstrates the appeals period applicable to the various forms of disciplinary action outlined in this Section3:

Type of Disciplinary Action	Time to appeal Preliminary Decision in days (non-statutory)	Time to appeal Final Decision in days (statutory)
Penalty points awarded	14	No statutory appeal
Points-based Suspension or Termination of Registration	14	14
Summary Suspension or Termination of Registration	14	14

The non-statutory appeals process, as covered in the table above, will only consider evidence or factors which may indicate that SEAI's preliminary decision is incorrect. All such evidence or factors must only be related to the specific circumstances leading to the issue of a notification of suspension or termination, and no new evidence that should have reasonable been available as part of SEAI's initial determination will be considered.

#### 4. Amendments to the Quality Assurance System and the Disciplinary Procedure

SEAI, in its capacity as the Issuing Authority under the 2012 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 2012 Regulations, including such matters as appear to SEAI to be necessary or expedient for the proper administration of the Scheme. As a result, SEAI reserves the right to review and amend the systems and procedures outlined in this document and may also issue other directions to BER/DEC assessors, in accordance with the Regulations.

BER/DEC assessors shall be made aware of any such proposed amendments to this document by email or by way of an update displayed on the BER/DEC section of 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 this document, which is binding on all BER/DEC assessors pursuant to Regulation 17(2) of the 2012 Regulations, BER/DEC assessors should visit [SEAI's website](#).



## APPENDICES

### Appendix A - Breaches of Code of Practice Matrix

This matrix has been prepared as a guideline to the potential breach events of the Code of Practice for BER/DEC Assessors. For each potential breach event, the nature of the event, the seriousness and extent (how systematic the issue is) will inform the severity level and sanction to be applied. In the examples shown below (Code of Practice breaches) SEAI may also consider Summary Suspension arising from their forming an opinion as to the systematic nature of these factors. However, SEAI are not limited to the specific examples below (of Code of Practice breaches) in leading to their forming of such an opinion. Example breach events leading to a finding of instances for revocation of individual BER/DEC assessments are also shown.

No.	Reference Section	Description	Severity 1	Severity 2	Severity 3	Instances for Revocation	Summary Suspension
1	2	Registered BER/DEC Assessor knowingly allows persons other than themselves to use their NAS/NDNAS/DEAP account to 'engage in the practice of carrying out BER/DEC assessments and publish such assessments	✓			✓	✓
2	2	Registered BER/DEC Assessor fails to establish that he/she carried out all work in support of a BER /DEC assessment he/she made and/or published to NAS/NDNAS	✓			✓	✓
3	2	Person purports to be an assessor for a class of buildings but not such/represents him/herself as BER/DEC Assessor if registration has lapsed, been suspended or terminated	✓			✓	✓
4	3	Failure to produce Certificate of Registration when asked by member of the public	✓				
5	4	BER/DEC assessor offers BER/DEC services in respect of class of building or those classes of building to which their registration as a BER/DEC Assessor does not specifically apply	✓			✓	✓
6	4	BER/DEC Assessor or Principal refuses to meet the Obligations set out in	✓			✓	✓

		the Code of Practice					
7	4	Failure by a BER/DEC Assessor to attend regular mandatory workshops directed by SEAI and resulting failure to meet CPD targets set out by SEAI			✓		✓
8	5	Failure to carry out a full building survey to collate and verify data for assessment before submitting the BER/DEC data file to SEAI		✓		✓	✓
9	5	Failure to demonstrate that sufficient care was taken in ensuring that all of the data points compiled and inputted into a BER/DEC assessment of that a DEAP/NEAP/DEC calculation are (is) accurate	✓	✓	✓	✓	✓
10	5	Failure to demonstrate that all reasonable steps were made to obtain a signed or written confirmation from the homeowner, home occupant or relevant agent, as evidence that the site was visited and that an assessment was carried out at the premises to collect evidence (where a survey is a requirement).		✓			✓
12	5	Failure to obtain unique photographic evidence from a premises visit for the purpose of carrying out a BER/DEC assessment		✓			✓
12	6	Failure to carry out obligation to act in an independent manner	✓			✓	✓
13	6	Failure to demonstrate and ensure that an adequate system is in place to enquire, prior to carrying out a BER/DEC assessment, as to whether of the independence conditions specified in Section 6 of the BER/DEC Assessors Code of Practice exists	✓				✓
14	7	Failure to take full responsibility for the accurate submission of a BER assessment	✓			✓	✓
15	7	Failure to use procedures specified by SEAI or to comply with Regulations, Code of Practice or other directions issued by SEAI	✓	✓	✓	✓	✓
16	7	Failure to inform Client that BER/DEC was revoked, reasons for same or that material changes to the building render a previous BER/DEC	✓				✓

		published by that assessor obsolete					
17	7	Failure to demonstrate and ensure that all validation notices issued by the BER/DEC Register or SEAI prior to acceptance of a data file into the BER/DEC Register are adequately reviewed and resolved	✓	✓	✓	✓	✓
18	7	Failure to demonstrate and ensure that the number of assessment carried out by an assessor does not impact on his/her ability to meet SEAI's requirement for a quality service in the marketplace and technical excellence are met at all times	✓	✓	✓	✓	✓
19	8	Failure to provide on receipt of any audit request or direction issued by SEAI or an Authorised Officer, the records supporting the BER/DEC assessment and/or data or other documentation related to a BER data file as set out in Section 8 of the BER/DEC Assessors Code of Practice.	✓				✓
20	8	Failure to maintain and make available all the associated records, data, and/or documentation specified in Section 8 of the Code of Practice from the time of publication	✓	✓	✓	✓	✓
21	8	Alteration or destruction of records, data and other documentation relating to a BER/DEC data file which the BER/DEC Assessor or their Principal may be reasonably expected to maintain	✓			✓	✓
22	8	Failure to maintain in a proper manner BER assessment records and supporting documentation	✓	✓	✓	✓	✓
23	9	Failure to keep insurance in place in the manner specified in the Code of Practice Section 9	✓		✓		✓
24	10	Failure to maintain in a confidential manner data relating to a BER Customer's Assessment			✓		
25	10	Failure to obtain the consent of a BER Customer to hold discussions with third parties concerning a BER assessment			✓		

26	11	Service offering not made in writing (post/email/fax) clearly made to the BER Customer in line with the Code of Practice and QA procedure			✓		
27	12	Failure to pay fees owing to SEAI and or its collection agents			✓		✓
28	13	Failure to comply with the relevant sections of the 'Code of Standards for Advertising and Direct Marketing in Ireland'			✓		
29	13	Making use of SEAI's logo in any marketing material (unless otherwise explicitly permitted)			✓		
30	13	Stating or implying that SEAI endorses a BER Assessor (can only make reference to the fact that they are registered by SEAI)			✓		
31	15	Failure to carry out corrective actions issued by SEAI or its Authorised Agents	✓			✓	
32	18	Failing to notify the client that a building does not conform to Part L		✓			✓

## Appendix B - Technical Error Classification Matrix

### Appendix B.1 – Domestic Technical Error Classification Matrix

#### BER being audited is greater than 100 kWh/m<sup>2</sup>/year:

Where technical errors are identified in audits, their impact on the rating is classified in order to determine the severity of non-compliance based on the following measures:

- Net Change (NC): Non-compliance(s) resulting in % change in the energy value;
- Gross Error (GE): Non-compliance(s) sized in terms of the sum of the absolute % change of each non-compliance; and
- Grade Change (GC): Non-compliance(s) which has resulted in a change of grade of the rating.

The severity of technical non-compliance is classified as follows:

Technical Error	Severity of Non-Compliance
NC > 10%	Severity 1
NC % (7.5 < X ≤ 10)	Severity 2
NC % (5 < X ≤ 7.5)	Severity 3
NC % ≤ 5	N/A (Compliant)
GE > 20%	Severity 1
GE % (15 < X ≤ 20)	Severity 2
GE % (10 < X ≤ 15)	Severity 3
GE % ≤ 10%	N/A (Compliant)
GC	Severity 2 (Advisory)

#### BER being audited is less than 100 kWh/m<sup>2</sup>/year:

Where technical errors are identified in audits, their impact on the rating is classified in order to determine the severity of non-compliance based on the following measures:

- Net Change (NC): Non-compliance(s) resulting in kWh/m<sup>2</sup>/year change in the energy value;
- Gross Error (GE): Non-compliance(s) sized in terms of the sum of the absolute kWh/m<sup>2</sup>/year change of each non-compliance; and
- Grade Change (GC): Non-compliance(s) which has resulted in a change of grade of the rating.

The severity of technical non-compliance is classified as follows:

Technical Error (kWh/m <sup>2</sup> /year)	Severity of Non-Compliance
NC > 10	Severity 1
NC (7.5 < X ≤ 10)	Severity 2
NC (5 < X ≤ 7.5)	Severity 3
NC ≤ 5	N/A (Compliant)
GE 20	Severity 1
GE (15 < X ≤ 20)	Severity 2
GE (10 < X ≤ 15)	Severity 3
GE ≤ 10	N/A (Compliant)
GC	Severity 2 (Advisory)

## Appendix B.2 – Non-Domestic Technical Error Classification Matrix

Where technical errors are identified in audits, their impact on the rating is classified in order to determine the severity of non-compliance based on the following measures:

- Net Change (NC): Non-compliance(s) resulting in % change in the energy value;
- Gross Error (GE): Non-compliance(s) sized in terms of the sum of the absolute % change of each non-compliance; and
- Grade Change (GC): Non-compliance(s) which has resulted in a change of grade of the rating.

The severity of technical non-compliance is classified as follows:

Technical Error	Severity of Non-Compliance
NC > 10%	Severity 1
NC % ( $7.5 \leq X \leq 10$ )	Severity 2
NC % ( $5 \leq X \leq 7.5$ )	Severity 3
NC % < 5	N/A (Compliant)
GE > 20%	Severity 1
GE % ( $15 \leq X \leq 20$ )	Severity 2
GE % ( $10 \leq X \leq 15$ )	Severity 3
GE % < 10%	N/A (Compliant)*
GC	Severity 2 (Advisory)

In cases in which the total floor area  $\leq 250\text{m}^2$  or the number of zones is  $1 \leq X \leq 5$ , then all zones are selected for audit. In all other cases, the number of zones selected is based on the number of zones present in the data file. Zone selection should be selected in order of zones highest energy consumption.

No. of zones in the data file	No. of zones selected for audit
$6 \leq X \leq 25$	Zones $\geq 50\%$ of the floor area*
$26 \leq X \leq 50$	Zones $\geq 40\%$ of the floor area*
$51 \leq X \leq 75$	Zones $\geq 30\%$ of the floor area*
$76 \leq X \leq 100$	Zones $\geq 20\%$ of the floor area*
> 100	Zones $\geq 10\%$ of the floor area*

\*Selected in order of the zone's highest energy consumption



**Riailtas na hÉireann**  
Government of Ireland

**Sustainable Energy Authority of Ireland**

Three Park Place  
Hatch Street Upper  
Dublin 2  
Ireland  
D02 FX65

**w:** [www.SEAI.ie](http://www.SEAI.ie)  
**e:** [info@SEAI.ie](mailto:info@SEAI.ie)  
**t:** 01 8082100

