



STATUTORY INSTRUMENTS.

**S.I. No. 243 of 2012**

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EUROPEAN UNION (ENERGY PERFORMANCE OF BUILDINGS)  
REGULATIONS 2012

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S.I. No. 243 of 2012

EUROPEAN UNION (ENERGY PERFORMANCE OF BUILDINGS)  
REGULATIONS 2012

I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010<sup>1</sup>, hereby make the following regulations:—

PART 1

PRELIMINARY AND GENERAL

*Citation and commencement*

1. (1) These Regulations may be cited as the European Union (Energy Performance of Buildings) Regulations 2012.

(2) These Regulations come into operation on 9 January 2013.

*Purpose of Regulations*

2. The purpose for which these Regulations are made include the giving effect to the relevant provisions of Articles 1, 2, 3, 4(2), 6, 7, 11, 12, 13, 14(4), 15(4), 17, 18, 27, 28 and 29 of Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (recast).

*Interpretation generally*

3. (1) In these Regulations:—

“accredited BER training provider” means—

- (a) Sustainable Energy Authority of Ireland,
- (b) an accredited BER training provider providing a validated BER training course leading to an award recognised through the National Qualifications Authority of Ireland,
- (c) an accredited BER training provider providing a BER training course designated in writing by the Issuing Authority, or
- (d) an accredited BER training provider providing a BER training course which is recognised pursuant to the requirements of the Recognition of Professions Qualifications (Directive 2005/36/EC) Regulations 2008 (S.I. No. 139 of 2008);

<sup>1</sup> O.J. No. L 153, 18.6.2010, page 13

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 10th July, 2012.*

“advertisement” in relation to a building energy rating, means a public announcement—

- (a) in a newspaper,
- (b) in a magazine,
- (c) in a brochure,
- (d) in a leaflet,
- (e) on an advertising notice,
- (f) on a vehicle,
- (g) on the radio,
- (h) on the television,
- (i) on the internet (including on websites and applications used for social networking),
- (j) through direct mail (whether in printed or e-mail format), or
- (k) in such other forms as may be prescribed in guidance provided by the Issuing Authority,

providing information in relation to the building energy rating recorded on the BER register in respect of the building to which that advertisement relates;

“advertising notice” means a publicly displayed structure carrying lettering or designs intended to advertise a business, product or service;

“advisory report” means a report, held and which may be viewed in electronic form on the BER register, which shall accompany a BER certificate or provisional BER certificate that has been produced on the basis of a BER assessment of a building and is in a form approved by the Issuing Authority with the prior approval of the Minister, which contains recommendations for the cost-optimal or cost-effective improvement of the energy performance of the building, and which may be reproduced and issued in printed form by or on behalf of the Issuing Authority;

“agent” means any person who acts for, or represents, a person who—

- (a) commissions the construction of a new building,
- (b) offers a building for sale, or
- (c) offers a building for letting.

An agent shall include, in particular but by no means exhaustively, estate agents, sales agents, letting agents and solicitors;

- “authorised officer” may mean either a person authorised by a Building Control Authority or by the Issuing Authority under Regulation 29;
- “BER” means a building energy rating recorded on the BER register on the basis of a BER assessment;
- “BER assessment” means an assessment of the energy performance of a building by a BER assessor using procedures, calculation methodology and software, specified by the Issuing Authority for the purpose of assigning a BER;
- “BER assessor” means a person registered by the Issuing Authority, for a designated class or classes of buildings, for the purpose of BER assessment of such class or classes of buildings;
- “BER certificate” means a certificate generated in the prescribed form on the basis of a BER assessment, which is held and may be viewed in electronic form on the BER register, and may be reproduced and issued in printed form by or on behalf of the Issuing Authority. The BER certificate shall be accompanied by an advisory report generated as part of the BER assessment;
- “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;
- “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 register” means a database of BER records and related data or documents established, operated, maintained and owned by the Issuing Authority for the purposes of these Regulations;
- “BER system” means the registers, processes and rules established, operated, maintained and owned by the Issuing Authority for the purpose of administering BER and related activities in accordance with the requirements of these Regulations;
- “building” means a roofed construction having walls, for which energy is used to condition the indoor climate;
- “Building Control Authority” has the meaning assigned to it by Section 2 of the Building Control Act 1990 (No. 3 of 1990);
- “cogeneration” means simultaneous generation in one process of thermal energy and electrical or mechanical energy (or both);

“cost-optimal level” means the energy performance level which leads to the lowest cost during the estimated economic lifecycle, where—

- (a) the lowest cost is determined taking into account energy-related investment costs, maintenance and operating costs (including energy costs and savings, the category of building concerned, earnings from the energy produced), where applicable, and disposal costs, where applicable, and
- (b) the estimated economic lifecycle is determined by each member state. It refers to the remaining estimated economic lifecycle of a building where energy performance requirements are set for the building as a whole, or to the estimated economic lifecycle of a building element where energy performance requirements are set for building elements.

The cost-optimal level shall lie within the range of performance levels where the cost benefit analysis calculated over the estimated economic lifecycle is positive;

“DEC” means a display energy certificate generated in the prescribed form on the basis of a DEC assessment, which is held and may be viewed in electronic form on the DEC register, and may be reproduced and issued in printed form by or on behalf of the Issuing Authority;

“DEC assessment” means an assessment of the energy performance of a building by a DEC assessor using procedures, including calculation methodology and software, specified by the Issuing Authority for the purpose of generating a DEC;

“DEC assessor” means a person registered by the Issuing Authority for the purpose of a DEC assessment;

“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;

“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 register” means a database of DEC records and related data or documents established, operated, maintained and owned by the Issuing Authority for the purposes of these Regulations;

“Directive” means Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010;

“district heating” or “district cooling” means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from a central source of production through a network to multiple buildings or sites, for the use of space or process heating or cooling;

“dwelling” means a building, or any part of a building, which is used or suitable for use by persons as a place to live. Dwellings shall include houses, apartments, maisonettes, duplexes and other such buildings where persons would typically reside. Buildings, other than apartment complexes, that provide multi-occupancy accommodation under specific conditions such as hospitals, nursing homes, boarding schools, hotels and hostels, shall not be considered as dwellings;

“e-mail” means electronic mail;

“energy from renewable sources” means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

“energy performance indicator” in relation to a BER certificate means the alpha-numeric indicator set out on the BER certificate as distinct from the quantification of the energy performance indicator expressed in terms of kilowatt hours per square metre floor area per year (kWh/m<sup>2</sup>/yr);

“fax” means a facsimile of a signed or written communication transmitted through the telecommunications system;

“heat pump” means a machine, a device or installation that transfers heat from natural surroundings such as air, water or ground to buildings or industrial applications by reversing the natural flow of heat such that it flows from a lower to a higher temperature. For reversible heat pumps, it may also move heat from the building to the natural surroundings;

“Issuing Authority” means the Sustainable Energy Authority of Ireland as established pursuant to the Sustainable Energy Act 2002 (No. 2 of 2002). The Issuing Authority shall be responsible for the administration of the BER system in accordance with the requirements of these Regulations;

“large building” means a building other than a dwelling which—

(a) is occupied by a public body and

(I) has a total useful floor area in excess of—

(A) 500 m<sup>2</sup> on or after 9 January 2013 and up to and including 8 July 2015, or

(B) 250 m<sup>2</sup> on or after 9 July 2015, and

(II) is frequently visited by the public, or

- (b) has a total useful floor area in excess of 500 m<sup>2</sup> on or after 9 January 2013 and is frequently visited by the public;

“major renovation” means the renovation of a building where more than 25% of the surface of the building envelope undergoes renovation;

“Minister” means the Minister for the Environment, Community and Local Government;

“planning application” means an application for planning permission or approval pursuant to the Planning and Development Act 2000 (No. 30 of 2000);

“planning notice” means a notice pursuant to the provisions of Part 8 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

“provisional BER certificate” is a certificate in a prescribed form respecting a proposed new building which is held and may be viewed in electronic form on the BER register on the basis of a BER assessment of the plans and specifications for the building prior to its construction being completed, and may be reproduced and issued by or on behalf of the Issuing Authority in printed form;

“public body” means—

- (a) a Department of State,
- (b) the Office of the President,
- (c) the Office of the Attorney General,
- (d) the Office of the Comptroller and Auditor General,
- (e) the Office of the Houses of the Oireachtas,
- (f) a local authority,
- (g) the Health Service Executive, or
- (h) a person, body or organisation (other than the Defence Forces) established—
  - (i) by or under any enactment (other than the Companies Acts), or
  - (ii) under the Companies Acts, in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or shares held by or on behalf of a Minister of the Government;

“register of BER assessors” means a database of BER assessors registered with the Issuing Authority and related data established, operated, maintained and owned by the Issuing Authority;

“register of DEC assessors” means a database of DEC assessors registered with the Issuing Authority and related data established, operated, maintained and owned by the Issuing Authority;

“Regulations of 2006” means the European Communities (Energy Performance of Buildings) Regulations 2006 (S.I. No. 666 of 2006) as amended by the European Communities (Energy Performance of Buildings) (Amendment) Regulations 2008 (S.I. No. 229 of 2008) and the European Communities (Energy Performance of Buildings) (Amendment) (No. 2) Regulations 2008 (S.I. No. 591 of 2008).

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

(3) Any reference to Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002<sup>2</sup> on the energy performance of buildings shall be construed as a reference to the Directive.

#### *Exempted buildings*

4. These Regulations do not apply to the following categories of buildings:

(1) a national monument for the purposes of the National Monuments Act 1930 (No. 2 of 1930), including a recorded monument under the provisions of Section 12 of the National Monuments (Amendment) Act 1994 (No. 17 of 1994) or a registered historic monument under the provisions of Section 5 of the National Monuments (Amendment) Act 1987 (No. 17 of 1987);

(2) a protected structure or proposed protected structure within the meaning of the Planning and Development Act 2000;

(3) a building used as a place of worship or for the religious activities of any religion;

(4) a temporary building as defined in Classes 10 to 13 of the Third Schedule to the Building Regulations 1997 (S.I. No. 497 of 1997);

(5) an industrial building not intended for human occupancy over extended periods and where the installed heating capacity does not exceed 10 W/m<sup>2</sup>;

(6) a non-residential agricultural building where the installed heating capacity does not exceed 10 W/m<sup>2</sup>;

(7) a stand alone building with a total useful floor area of less than 50 m<sup>2</sup>.

<sup>2</sup>O.J. No. L 1, 4.1.2003, page 65

## PART 2

## ALTERNATIVE ENERGY SYSTEMS

*Application*

5. This Part of the Regulations shall apply to the design of any new building for which a planning application is made, or a planning notice is published, on or after 9 January 2013.

*Installation of alternative energy systems*

6. (1) A person who commissions the construction of—

- (a) a new building other than a dwelling shall ensure that, before construction starts, the technical, environmental and economic feasibility of installing high efficiency alternative energy systems is considered and, notwithstanding anything contained in any regulation, taken into account in the design of that new building, or
- (b) a new dwelling shall ensure that a reasonable proportion of the energy consumption to meet the energy performance of the dwelling is provided by energy from renewable sources in accordance with the Building Regulations (Part L Amendment) Regulations 2011 (S.I. No. 259 of 2011).

(2) The alternative energy systems to be considered for the purposes of paragraph (1)(a) shall include—

- (a) decentralised energy supply systems based on energy from renewable sources,
- (b) cogeneration,
- (c) district or block heating or cooling, particularly where it is based entirely or partially on energy from renewable sources, and
- (d) heat pumps.

*Feasibility studies*

7. (1) Compliance with the provisions of Regulation 6(1)(a) shall be demonstrated by reference to a feasibility study carried out by, or on behalf of, the person who commissions the construction of the proposed new building other than a dwelling which assesses the appropriateness or otherwise of the alternative energy systems which may be technically, environmentally and economically feasible for that particular building or for groups of similar buildings or for common typologies of buildings in the same area. Where district heating or cooling is to be assessed, the analysis may be carried out for all buildings connected to the system in the same area.

(2) A feasibility study under paragraph (1) shall be carried out by a suitably qualified person (who may employ appropriate information technology for that purpose) and shall include specific recommendations in relation to the utilisation

of alternative energy systems, including those specified in this Regulation, to serve the new building other than a dwelling in question.

(3) A feasibility study under paragraph (1) may be constituted by the employment of information technology approved by the Issuing Authority for that purpose and the provision of the results therefrom.

(4) The results arising from the feasibility study of alternative energy systems required under this Regulation shall be—

- (a) incorporated into a written report on the design of the proposed new building other than a dwelling and shall be retained by the person who commissions that building for a period of 5 years from the date of completion of the building,
- (b) produced, on demand, to the Building Control Authority within whose functional area the new building other than a dwelling is located, and
- (c) provided to the building owner on completion of construction of the new building other than a dwelling.

#### *Existing buildings*

8. (1) Where an existing building is to undergo major renovation, the person who commissions such works may, on his or her initiative, consider and take into account the technical, environmental and economic feasibility of installing high efficiency alternative energy systems in the design of the renovation works.

(2) The alternative energy systems that may be considered for the purposes of paragraph (1) may include—

- (a) decentralised energy supply systems based on energy from renewable sources,
- (b) cogeneration,
- (c) district or block heating or cooling, particularly where it is based entirely or partially on energy from renewable sources, or
- (d) heat pumps.

#### *Offences*

9. (1) A person who contravenes any provision of Regulations 5 to 7 is guilty of an offence.

(2) Proceedings for an offence under this Part may be brought and prosecuted by the Building Control Authority within whose functional area the new building is located.

## PART 3

## BUILDING ENERGY RATING

*Issue of BER certificates for dwellings*

10. (1) A person who commissions the construction of a new dwelling, the construction of which commences on or after 9 January 2013, shall, before such dwelling is occupied for the first time, secure a BER certificate (in the form prescribed by Schedule 1, or as appropriate by Schedule 2, to these Regulations) and accompanying advisory report in relation to the dwelling.

(2) A person who offers for sale or letting (whether in writing or otherwise)—

(a) a new dwelling, the construction of which commences on or after 9 January 2013, or

(b) a dwelling that is in existence on or before 9 January 2013,

and any agent acting on behalf of such person in connection with such offering, shall produce a printed copy of the BER certificate (in the form prescribed in Schedule 1 to these Regulations) and the accompanying advisory report in relation to the dwelling to any person expressing an interest in purchasing or taking a letting of the dwelling.

(3) Where a new dwelling is under construction and is being offered for sale or letting (whether in writing or otherwise)—

(a) on the basis of the plans and specifications for its proposed construction, a printed copy of the provisional BER certificate (in the form prescribed in Schedule 2 to these Regulations and which is based on the plans and specifications in relation to the proposed dwelling) and the accompanying advisory report, shall be produced to any person expressing an interest in purchasing or taking a letting of the dwelling, and

(b) on completion of the construction of the dwelling, a printed copy of the BER certificate (in the form prescribed in Schedule 1 to these Regulations and which takes into account any changes implemented during its construction having regard to the plans, specifications or other data on which the provisional BER was based) and the accompanying advisory report for the completed dwelling, shall be produced to any purchaser or tenant, before completion of such sale or letting.

(4) A person required to produce a BER certificate and accompanying advisory report for a dwelling under this Regulation shall warrant that such BER certificate and advisory report as he or she produces corresponds to the current BER record for the dwelling on the BER register.

*Issue of BER certificates for buildings other than dwellings*

11. (1) A person who commissions the construction of a new building other than a dwelling, the construction of which commences on or after 9 January 2013, shall, before such building is occupied for the first time, secure a BER certificate (in the form prescribed by Schedule 3, or as appropriate by Schedule 4, to these Regulations) and accompanying advisory report in relation to the building.

(2) A person who offers for sale or letting (whether in writing or otherwise)—

(a) a new building other than a dwelling, the construction of which commences on or after 9 January 2013, or

(b) a building other than a dwelling that is in existence on or before 9 January 2013,

and any agent acting on behalf of such person in connection with such offering, shall produce a printed copy of the BER certificate (in the form prescribed in Schedule 3 to these Regulations) and the accompanying advisory report in relation to the building to any person expressing an interest in purchasing or taking a letting of the building.

(3) Where a new building other than a dwelling is under construction and is being offered for sale or letting (whether in writing or otherwise)—

(a) on the basis of the plans and specifications for its proposed construction, a printed copy of the provisional BER certificate (in the form prescribed in Schedule 4 to these Regulations and which is based on the plans and specifications in relation to the proposed building) and the accompanying advisory report, shall be produced to any person expressing an interest in purchasing or taking a letting of the building, and

(b) on completion of the construction of the building, a printed copy of the BER certificate (in the form prescribed in Schedule 3 to these Regulations and which takes into account any changes implemented during its construction having regard to the plans, specifications or other data on which the provisional BER was based) and the accompanying advisory report for the completed building, shall be produced to any purchaser or tenant, before completion of such sale or letting.

(4) A person required to produce a BER certificate and accompanying advisory report for a building under this Regulation shall warrant that such BER certificate and advisory report as he or she produces corresponds to the current BER record for the building on the BER register.

*Advertising of BER*

12. (1) A person who offers for sale or letting (whether in writing or otherwise)—

- (a) a new dwelling, the construction of which commences on or after 9 January 2013, or
- (b) a dwelling that is in existence on or before 9 January 2013,

and any agent acting on behalf of such person in connection with such offering, shall ensure that the energy performance indicator of the current BER certificate for the dwelling is stated in any advertisements, where such advertisements are taken relating to the sale or letting of that dwelling.

- (2) A person who offers for sale or letting (whether in writing or otherwise)—
  - (a) a new building other than a dwelling, the construction of which commences on or after 9 January 2013, or
  - (b) a building other than a dwelling that is in existence on or before 9 January 2013,

and any agent acting on behalf of such person in connection with such offering, shall ensure that the energy performance indicator of the current BER certificate for the building is stated in any advertisements, where such advertisements are taken relating to the sale or letting of that building.

(3) Where advertisements are taken in relation to the sale or letting of a dwelling, or as appropriate a building other than a dwelling, the energy performance indicator of the current BER certificate for the dwelling, or as appropriate the building other than a dwelling, shall be displayed in such advertisements in accordance with guidance published by the Issuing Authority under the provisions of paragraph (4).

(4) The Issuing Authority may publish, or arrange to have published on its behalf, guidance on the display of the energy performance indicator of the BER certificate for a dwelling, or as appropriate a building other than a dwelling, and on any associated text. The guidance may make provision for all or any of the following:

- (a) forms of advertisement deemed to be within scope of the provisions of paragraphs (1) and (2);
- (b) text in relation to the BER;
- (c) font size and colour;
- (d) energy performance indicator size and colour;
- (e) line and paragraph spacing;
- (f) background colour;
- (g) such other matters as deemed by the Issuing Authority to be necessary or expedient for the purposes of this Regulation.

(5) A Building Control Authority, or an authorised officer thereof, may demand from—

- (a) an owner, or
- (b) an agent acting on behalf of such owner,

of a dwelling, or as appropriate a building other than a dwelling, which is situated within the functional area of that Building Control Authority, such evidence as it deems necessary or expedient for the purposes of demonstrating compliance with the provisions of this Regulation.

*Production of a BER certificate to a Building Control Authority*

13. (1) A Building Control Authority, or an authorised officer thereof, may demand from—

- (a) an owner, or
- (b) an agent acting on behalf of such owner,

of a dwelling which is situated within the functional area of that Building Control Authority, the production of a printed copy of the BER certificate and the accompanying advisory report required in respect of the dwelling under Regulation 10.

(2) A Building Control Authority, or an authorised officer thereof, may demand from—

- (a) an owner, or
- (b) an agent acting on behalf of the owner,

of a building other than a dwelling which is situated within the functional area of that Building Control Authority, the production of a printed copy of the BER certificate and the accompanying advisory report required in respect of the building under Regulation 11.

(3) Where a Building Control Authority, or an authorised officer thereof, makes a demand under either paragraph (1) or paragraph (2), the owner, or the agent acting on behalf of the owner, shall produce to the Building Control Authority—

- (a) the printed copy of the BER certificate there and then, or
- (b) within 28 days after the day on which production of the BER certificate was demanded, a reasonable explanation to the satisfaction of the Building Control Authority for the failure by the owner, or the agent acting on behalf of the owner, to produce the printed copy of the BER certificate.

(4) Where a person produces a printed copy of the BER certificate and the accompanying advisory report to an authorised officer of the Building Control

Authority, the authorised officer shall be permitted to read and examine such certificate and report. If a person fails or refuses to permit the authorised officer to read and examine the printed copy of the BER certificate and the advisory report, the authorised officer may demand of the person his or her name and address.

*Public buildings*

14. (1) On or after 9 January 2013, a public body shall, in relation to a large building occupied by it, secure and display a valid DEC.

(2) On or after 9 January 2013, the owner, or an agent acting on behalf of such owner, of a large building shall secure and display a valid DEC.

(3) A DEC shall be in the form prescribed in Schedule 5 to these Regulations.

(4) A DEC shall be displayed in a prominent place clearly visible to members of the public in the large building to which it relates.

(5) For the avoidance of doubt, the requirement for the display of a valid DEC is additional to the requirement to secure a BER certificate pursuant to the provisions of Regulation 11.

(6) Where a public body has secured a BER certificate and the accompanying advisory report in respect of a building occupied by it pursuant to the provisions of Regulation 11, that public body shall, subject to its budgetary constraints, implement the recommendations for the cost-optimal or cost-effective improvement of the energy performance of the building within the period of the certificate's validity.

*Offences*

15. (1) A person who contravenes any provision of this Part of the Regulations is guilty of an offence.

(2) Proceedings for an offence under this Part may be brought and prosecuted by the Building Control Authority within whose functional area the dwelling or building other than a dwelling is located.

PART 4

ADMINISTRATION OF BER SYSTEM

*Registration of assessors*

16. (1) Subject to paragraphs (3), (4) and (5), the Issuing Authority may register—

(a) BER assessors, and

(b) DEC assessors,

to assess the energy performance of buildings in accordance with the relevant provisions of these Regulations.

(2) In registering a BER assessor, the Issuing Authority shall designate the class or classes of buildings in respect of which the BER assessor is authorised to carry out BER assessments.

(3) The Issuing Authority shall not consider a person for registration as a BER assessor, or as a DEC assessor, unless the:

- (a) person makes application for registration to the Issuing Authority in the form specified by the Issuing Authority for such purpose;
- (b) application for registration is accompanied by any fee specified by the Issuing Authority in accordance with Regulation 19(1);
- (c) person satisfactorily meets all other requirements specified by the Issuing Authority.

(4) In considering an application for registration as a BER assessor, the Issuing Authority must be satisfied that the applicant has fulfilled any training and examination requirements as may be set out by the Issuing Authority from time to time in relation to the relevant designated class or classes of buildings.

(5) In considering an application for registration as a DEC assessor, the Issuing Authority must be satisfied that the applicant has fulfilled any training and examination requirements as may be set out by the Issuing Authority from time to time in relation to DEC assessments.

(6) A BER assessor who is registered by the Issuing Authority in respect of one class of building may apply to the said authority to be registered in respect of another class or classes of buildings, and may be so registered, subject to compliance with the provisions set out in paragraphs (3) and (4) and payment of any fee specified by the Issuing Authority.

(7) A BER assessor, or a DEC assessor, shall be required to renew his or her registration at such frequency as may be determined by the Issuing Authority, subject to the payment of any registration renewal fee specified by the said authority in accordance with Regulation 19(1).

(8) The Issuing Authority shall provide each BER assessor with a certificate of registration for the designated class or classes of buildings to which his or her registration pertains and the certificate, if requested by the owner of a building or an agent acting on behalf of the owner, shall be presented for inspection to the owner, or the agent acting on behalf of the owner, as the case may be.

(9) The Issuing Authority shall provide each DEC assessor with a certificate of registration and the certificate, if requested by the owner of a building, or an agent acting on behalf of the owner, shall be presented for inspection to the owner, or the agent acting on behalf of the owner, as the case may be.

(10) Where the Issuing Authority suspends or terminates the registration of a person as a BER assessor, or as a DEC assessor, it shall note, in the register

at the entry for that person as a BER assessor, or as a DEC assessor, the suspension or termination of the appointment and the date on which it was suspended or revoked.

(11) The Issuing Authority may, having regard to all the circumstances of the case, suspend or terminate the registration of a BER assessor, or a DEC assessor, following:

- (a) failure by the BER assessor, or the DEC assessor, to attend a course of periodic training if required by the Issuing Authority or to satisfactorily complete such a training course;
- (b) failure by a BER assessor, or a DEC assessor, to comply with a direction under these Regulations;
- (c) failure by the 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;
- (d) 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;
- (e) the committing, or aiding or abetting the committing, by the BER assessor, or by the DEC assessor, of an offence under these Regulations;
- (f) the forming of an opinion by the Issuing Authority that the BER assessor, or the DEC assessor, has ceased to be capable of performing his or her functions under these Regulations properly and efficiently;
- (g) failure by the BER assessor, or a DEC assessor, to comply with any procedural requirement as may be set out in a code of practice issued by the Issuing Authority under Regulation 17(1)(g).

(12) A suspension or termination of registration under paragraph (11) shall—

- (a) be notified to the person concerned by notice in writing,
- (b) state the reasons for the suspension or termination,
- (c) be carried out in accordance with any procedures pertaining to appeals, complaints and disputes as may be set out in a code of practice issued by the Issuing Authority under Regulation 17(1)(g),
- (d) state the date on which the suspension or termination takes effect, and
- (e) inform the person of the appeal procedure under paragraph (13).

(13) A person whose registration is to be suspended or terminated under paragraph (11) may, not later than 14 days after receipt by that person of a

notice issued under paragraph (12)(a), appeal against the suspension or termination to the judge of the District Court within whose district the person principally carries out BER assessments, or DEC assessments, as the case may be, on the following grounds—

- (a) that the appellant is not the person on whom the suspension or termination should have been served, or
- (b) any substantive or procedural non-compliance with the provisions of paragraph 11.

(14) Where the appeal is made under paragraph (13), the notice issued under paragraph (12)(a) shall stand suspended until the appeal is determined or withdrawn.

(15) In determining an appeal under paragraph (13) the judge may, if he or she is satisfied that it is reasonable to do so, confirm or revoke the suspension or termination and the Issuing Authority shall annotate the register maintained by it accordingly.

(16) A person who appeals under paragraph (13) shall at the same time notify the Issuing Authority of the appeal and the grounds for the appeal and the Issuing Authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(17) Where an appeal under paragraph (13) is taken, and the notice issued under paragraph (12)(a) is not withdrawn, the notice shall take effect on the later of—

- (a) 7 days after the day on which the suspension or termination is confirmed on appeal or the appeal is withdrawn, or
- (b) the date specified in the notice.

(18) A person whose registration as a BER assessor, or as a DEC assessor, has lapsed or been suspended or terminated may be directed by the Issuing Authority to return to the Issuing Authority, or to destroy, any data or documentation provided by the owner of the building, or an agent acting on behalf of the owner, and any copies thereof, in relation to BER assessments, or DEC assessments, carried out by him or her in his or her capacity as a BER assessor, or as a DEC assessor, as the case may be.

(19) A person whose registration as a BER assessor, or as a DEC assessor, has lapsed, been suspended or terminated, and who represents himself or herself as a BER assessor, or as a DEC assessor, commits an offence.

(20) A person who, not being such, purports to be a BER assessor for a designated class or classes of buildings or an authorised officer under these Regulations commits an offence.

(21) A person who, not being such, purports to be a DEC assessor or an authorised officer under these Regulations commits an offence.

(22) A person, purporting to give information to a BER assessor, a DEC assessor, the Issuing Authority or an authorised officer for the performance of his or her functions under these Regulations, who—

- (a) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false in a material particular, or
- (b) fails to disclose a material particular,

commits an offence.

*Directions by Issuing Authority*

17. (1) The Issuing Authority may from time to time issue directions to BER assessors, or to DEC assessors, in relation to:

- (a) the manner in which the BER assessments, or DEC assessments, are to be carried out;
- (b) the manner in which BER certificates, including provisional BER certificates, and accompanying advisory reports are to be issued;
- (c) the manner in which DECAs are to be issued;
- (d) the qualifications, training and examination requirements for BER assessors, or for DEC assessors, as the case may be;
- (e) the records, databases and documentation to be maintained by BER assessors, or by DEC assessors, as the case may be;
- (f) data and documentation to be provided by BER assessors, or by DEC assessors, to the Issuing Authority and the format of such data and documentation;
- (g) codes of practice to be respected by BER assessors, or by DEC assessors, as the case may be. Such codes of practice may make provision for all or any of the following—
  - (i) eligibility requirements,
  - (ii) registration of assessors,
  - (iii) professionalism, competence and diligence of assessors,
  - (iv) data integrity,
  - (v) independence of assessors,
  - (vi) records, data and documentation,

- (vii) professional indemnity, public liability and employer's liability insurance,
  - (viii) confidentiality and data protection,
  - (ix) quality customer service,
  - (x) details of the manner of collection of fees and levies as provided for under Regulation 19,
  - (xi) advertising and promotion,
  - (xii) use of technology,
  - (xiii) monitoring and compliance,
  - (xiv) appeals, complaints and disputes,
  - (xv) conformance with Building Regulations, and
  - (xvi) such other matters as appear to the Issuing Authority to be necessary or expedient for the purposes of this subparagraph;
- (h) such other matters as appear to the Issuing Authority to be necessary or expedient for the proper administration of the BER system.

(2) A BER assessor, or a DEC assessor, shall comply with any direction given under paragraph (1) of this Regulation.

*Application for assessment*

18. An application for a BER assessment in respect of a building, or a DEC assessment in respect of a large building, shall be made by the owner of the building, or an agent acting on behalf of the owner, in the form specified by the Issuing Authority, to a BER assessor, or to a DEC assessor, either in person, by post, by fax, by telephone, or by e-mail.

*Fees and levies*

19. (1) There may be charged by the Issuing Authority a fee:
- (a) in respect of the registration by the Issuing Authority of BER assessors;
  - (b) in respect of the renewal of registration by the Issuing Authority of BER assessors;
  - (c) in respect of the registration by the Issuing Authority of DEC assessors;
  - (d) in respect of the renewal of registration by the Issuing Authority of DEC assessors;

- (e) in respect of examinations prescribed by the Issuing Authority to maintain BER assessor registration eligibility;
- (f) in respect of examinations prescribed by the Issuing Authority to maintain DEC assessor registration eligibility.

(2) A fee charged by the Issuing Authority under this Regulation shall be payable by the—

- (a) BER assessor, or
- (b) DEC assessor,

to which the registration or renewal of registration relates and the Issuing Authority may refuse to register or renew a registration until such fee has been paid.

(3) There may be charged by the Issuing Authority a levy:—

- (a) determined by the Issuing Authority in respect of each BER assessment carried out on a building and submitted as a BER data file by the said assessor to the Issuing Authority for the purposes of issuing a BER certificate, or provisional BER certificate, and accompanying advisory report;
- (b) determined by the Issuing Authority in respect of each DEC assessment carried out on a building and submitted as a DEC data file by the said assessor to the Issuing Authority for the purposes of issuing a DEC.

(4) A levy charged by the Issuing Authority under this Regulation shall be payable by the—

- (a) BER assessor on each BER assessment carried out on a building and submitted as a BER data file by the said assessor to the Issuing Authority,
- (b) DEC assessor on each DEC assessment carried out on a building and submitted as a DEC data file by the said assessor to the Issuing Authority,

and the Issuing Authority may refuse to issue a BER certificate, a provisional BER certificate or a DEC, as the case may be, until such levy has been paid.

(5) Fees and levies payable to the Issuing Authority under this Regulation shall be collected and taken in such manner as may be set out in a code of practice issued by the Issuing Authority under Regulation 17(1)(g).

(6) Fees and levies payable to the Issuing Authority under this Regulation may be recovered by the Issuing Authority as simple contract debt in any court of competent jurisdiction.

(7) Fees and levies charged by the Issuing Authority under this Regulation shall not exceed an amount equal to the costs, estimated by the Issuing Authority, incurred in connection with the Issuing Authority carrying out, or causing to be carried out, its functions under these Regulations. The amount of fees and levies that may be charged by the Issuing Authority, or any changes to the amount of fees and levies that may be charged by the Issuing Authority, shall require the consent of the Minister prior to such fees and levies, or changes to such fees and levies, coming into effect.

(8) The Public Offices Fees Act 1879 does not apply in respect of fees and levies payable to the Issuing Authority under this Regulation.

*BER assessment of a building*

20. (1) The assessment of the energy performance of a building under these Regulations shall be carried out by a BER assessor.

(2) The BER assessment shall be carried out using procedures, including calculation methods and software, specified the Issuing Authority and including a survey of the building where required by direction of the Issuing Authority.

(3) In carrying out a BER assessment, a BER assessor shall comply with any direction given by the Issuing Authority in relation to the manner in which the assessment is to be carried out.

(4) A BER assessor may refuse to carry out a BER assessment if in his or her opinion any part of the building or any of its equipment is in such a condition that it would not be safe or practicable to carry out that assessment.

(5) Where a BER assessor refuses to carry out a BER assessment in accordance with paragraph (4), he or she shall return to the owner of the building, or an agent acting on behalf of the owner, as the case may be, any fee paid under these Regulations in respect of the application for that assessment.

*DEC assessment of a building*

21. (1) A DEC assessment under these Regulations shall be carried out by a DEC assessor.

(2) The DEC assessment shall be carried out using procedures, including calculation methods and software, specified the Issuing Authority and including a survey of the building where required by direction of the Issuing Authority.

(3) In carrying out a DEC assessment, a DEC assessor shall comply with any direction given by the Issuing Authority in relation to the manner in which the assessment is to be carried out.

(4) A DEC assessor may refuse to carry out a DEC assessment if in his or her opinion any part of the building or any of its equipment is in such a condition that it would not be safe or practicable to carry out that assessment.

(5) Where a DEC assessor refuses to carry out a DEC assessment in accordance with paragraph (4), he or she shall return to the owner of the building, or

an agent acting on behalf of the owner, as the case may be, any fee paid under these Regulations in respect of the application for that assessment.

*BER data files, DEC data files, certificates and advisory reports*

22. (1) The form of BER data files, DEC data files and associated data or documents shall be determined by the Issuing Authority.

(2) A BER assessor, upon completion of a BER assessment, or a DEC assessor, upon completion of a DEC assessment, shall submit to the Issuing Authority the related BER data file, or DEC data file, completed by him or her and associated data and any other documents specified by the Issuing Authority and in a manner specified by the Issuing Authority.

(3) A BER certificate, or provisional BER certificate where applicable, and accompanying advisory report for a building shall not be issued by the BER assessor to the owner of the building, or an agent acting on behalf of the owner, as the case may be, unless and until the BER data file is accepted into the BER register maintained by the Issuing Authority.

(4) A DEC shall not be issued by the DEC assessor to the owner of the building, or an agent acting on behalf of the owner, as the case may be, unless and until the DEC data file is accepted into the DEC register maintained by the Issuing Authority.

(5) Subject to paragraph (6), a BER certificate and accompanying advisory report for a building shall be valid until the expiration of 10 years from the date of its issue.

(6) A BER certificate and accompanying advisory report shall be rendered invalid if there is any material change in the building to which it relates which could affect its energy performance, including—

- (a) any significant deterioration in the fabric of the building,
- (b) any extension of the building, or
- (c) any change in the heating system for the building or in the type of fuel used by that system.

(7) A provisional BER certificate, where applicable, shall be valid for a period not exceeding 24 months from the date of its issue.

(8) Upon the issue of a BER certificate, or provisional BER certificate, and accompanying advisory report for a building within the period of validity of the existing BER certificate, or provisional BER certificate, and accompanying advisory report, the existing BER certificate, or provisional BER certificate, and accompanying advisory report shall be deemed to stand revoked.

(9) A DEC shall be valid for a period of 12 months from the date of its issue and shall be updated and renewed each year.

(10) Upon the issue of a DEC for a large building within the period of validity of the existing DEC, the existing DEC shall be deemed to stand revoked.

*Cancellation of BER data file or BER certificate*

23. (1) The Issuing Authority may revoke a BER data file for a building compiled by a BER assessor where it has reasonable grounds for believing that the BER data file was not completed or issued in accordance with these Regulations, and shall enter that revocation into the BER record for that building.

(2) Where a BER data file is revoked, any BER certificate (and accompanying advisory report), including a provisional BER certificate (and accompanying advisory report) where applicable, issued on foot of that data file shall be deemed to stand revoked, and that revocation shall be entered by the Issuing Authority into the BER record for that building.

(3) Where the Issuing Authority revokes a BER data file or BER certificate, the Issuing Authority may demand, by notice in writing, the giving up by the owner of the building, or by an agent acting on behalf of the owner, to the Issuing Authority any extant written version or copy of the relevant BER certificate and accompanying advisory report, within 14 days of the making of such demand.

(4) A person who fails to comply with a demand under paragraph (3) commits an offence.

(5) Where a BER data file or a BER certificate is revoked under this Regulation—

- (a) an application may be made by the person who paid a fee for the relevant BER assessment to the BER assessor who carried out the BER assessment for reimbursement of that fee, and
- (b) the BER assessor shall make the reimbursement referred to in subparagraph (a) if he or she is satisfied that the fee for the BER assessment in respect of which the BER data file relates was paid by the person making the application.

(6) Where the Issuing Authority revokes a BER data file or BER certificate under these Regulations, it shall immediately inform the BER assessor who issued the BER data file of the date the BER report or BER certificate was revoked, the reason for the revocation and the address or other identifier of the building to which the revoked BER report or revoked BER certificate relates.

*Cancellation of DEC data file or DEC*

24. (1) The Issuing Authority may revoke a DEC data file compiled by a DEC assessor where it has reasonable grounds for believing that the DEC data file was not completed or issued in accordance with these Regulations, and shall enter that revocation into the DEC record for that building.

(2) Where a DEC data file is revoked, any DEC issued on foot of that data file shall be deemed to stand revoked, and that revocation shall be entered by the Issuing Authority into the DEC record for that building.

(3) Where the Issuing Authority revokes a DEC data file or a DEC, the Issuing Authority may demand, by notice in writing, the giving up by the owner of the building, or by an agent acting on behalf of the owner, to the Issuing Authority any extant written version or copy of the relevant DEC within 14 days of the making of such demand.

(4) A person who fails to comply with a demand under paragraph (3) commits an offence.

(5) Where a DEC data file or a DEC is revoked under this Regulation—

(a) an application may be made by the person who paid a fee for the relevant DEC assessment to the DEC assessor who carried out the DEC assessment for reimbursement of that fee, and

(b) the DEC assessor shall make the reimbursement referred to in subparagraph (a) if he or she is satisfied that the fee for the DEC assessment in respect of which the DEC data file relates was paid by the person making the application.

(6) Where the Issuing Authority revokes a DEC data file or a DEC under these Regulations, it shall immediately inform the DEC assessor who issued the DEC data file of the date the DEC report or the DEC was revoked, the reason for the revocation and the address or other identifier of the building to which the revoked DEC relates.

*Alteration, defacement etc. of BER certificate or DEC*

25. (1) No person shall, either by writing, drawing or in any other manner, alter, deface, mutilate or add anything to a printed copy of—

(a) a BER certificate or the accompanying advisory report, or

(b) a DEC,

or to any entry made therein.

(2) No person shall produce:

(a) a printed copy of any BER certificate or accompanying advisory report for any building, or DEC for any large building, as the case may be, which has been altered, defaced, mutilated or added to contrary to paragraph (1), or upon which the figures have become illegible or the colour has become altered by fading or otherwise;

(b) a BER certificate or accompanying advisory report, or a DEC, as the case may be, save in relation to the building for which it was issued;

- (c) a BER certificate or accompanying advisory report, or a DEC, as the case may be, which has become void or the validity of which has expired;
- (d) any other imitation of a BER certificate or accompanying advisory report, or a DEC, as the case may be.

(3) The Issuing Authority may require the owner of a building, or an agent acting on behalf of the owner, to surrender to it for correction a BER certificate or accompanying advisory report where the authority has reason to believe that the BER certificate or accompanying advisory report contains particulars which are not correct and, upon being so required, the owner of the building, or an agent acting on behalf of the owner, shall surrender the relevant documents to the Issuing Authority forthwith which shall have issued to the owner, or an agent acting on behalf of the owner, a replacement BER certificate or accompanying advisory report.

(4) The Issuing Authority may require the owner of a building, or an agent acting on behalf of the owner, to surrender to it for correction a DEC where the authority has reason to believe that the DEC contains particulars which are not correct and, upon being so required, the owner of the building, or an agent acting on behalf of the owner, shall surrender the relevant document to the Issuing Authority forthwith which shall have issued to the owner, or an agent acting on behalf of the owner, a replacement DEC.

(5) Any person who contravenes a provision of this Regulation commits an offence.

*Records, data and documentation*

26. (1) All data, documentation and records kept by a BER assessor, or a DEC assessor, as the case may be, in connection with the carrying out of BER assessments, or DEC assessments, under these Regulations are the property of the Issuing Authority which has the power to—

- (a) direct a BER assessor or DEC assessor, the manner by, and duration for, which such records be retained, and
- (b) demand from the BER assessor, or the DEC assessor, as the case may be, any such data, documentation or records as it considers appropriate.

(2) BER certificates, provisional BER certificates, the accompanying advisory reports and DEC's issued under these Regulations shall be deemed to be, and shall remain, the property of the Issuing Authority and shall be furnished to the authority on demand for such amendment, cancellation or reissue as the circumstances may warrant.

(3) The lawful BER record in relation to a building shall be that maintained on the BER register by the Issuing Authority.

(4) The most recent BER record entered in relation to a building on the BER register by the Issuing Authority shall be deemed to supercede any previous BER record for that building.

(5) The lawful DEC record in relation to a large building shall be that maintained on the DEC register by the Issuing Authority.

(6) The most recent DEC record entered in relation to a building on the DEC register by the Issuing Authority shall be deemed to supercede any previous DEC record for that building.

*Registers maintained by Issuing Authority*

27. (1) The Issuing Authority shall establish, operate and maintain:

- (a) a register of BER assessors registered by the Issuing Authority;
- (b) a BER register comprising BER certificates, provisional BER certificates, advisory reports, BER data files and related data or documents;
- (c) a register of DEC assessors registered by the Issuing Authority;
- (d) a DEC register comprising DEC, DEC data files and related data or documents;
- (e) any other register that the Issuing Authority considers necessary for the proper administration of the BER system.

(2) Any register established under paragraph (1) may be held in non-legible form provided it is capable of being reproduced in legible form.

(3) Each register established under paragraph (1) shall be a public record, and shall be kept under the management of the Issuing Authority.

(4) In relation to the registers established under paragraph (1), the following access rights shall apply:

- (a) extracts from the register of BER assessors, comprising the name of each current BER assessor, the name of his or her employer (if any), place of business, contact details, and the designated classes of buildings to which his or her BER registration applies, shall be open to public inspection on the internet or, during normal office hours, at the offices of the Issuing Authority;
- (b) extracts from the BER register, comprising BER certificates, provisional BER certificates where applicable, and accompanying advisory reports, shall be open to public inspection on a restricted basis on the internet or, during normal office hours, at the offices of the Issuing Authority;

- (c) other than provided for in subparagraphs (a) and (b), a data file or other extract from a register relating to a BER assessment for a particular building shall normally only be made available to—
  - (i) the BER assessor that carried out the relevant BER assessment, or his or her then employer,
  - (ii) a BER assessor undertaking any subsequent BER assessment of the relevant building, or his or her employer, or
  - (iii) the relevant owner of the building, or an agent acting on behalf of the owner, via a BER assessor;
- (d) extracts from the register of DEC assessors, comprising the name of each current DEC assessor, the name of his or her employer (if any), place of business and contact details, shall be open to public inspection on the internet or, during normal office hours, at the offices of the Issuing Authority;
- (e) extracts from the DEC register, comprising DECs, shall be open to public inspection on the internet or, during normal office hours, at the offices of the Issuing Authority;
- (f) other than provided for in subparagraphs (d) and (e), a data file or other extract from a register relating to a DEC assessment for a particular building shall normally only be made available to—
  - (i) the DEC assessor that carried out the relevant DEC assessment, or his or her then employer,
  - (ii) a DEC assessor undertaking any subsequent DEC assessment of the relevant building, or his or her employer, or
  - (iii) the relevant owner of the building, or an agent acting on behalf of the owner, via a DEC assessor.

#### *Evidential Value*

28. (1) In any proceedings a certificate signed by an authorised officer of the Issuing Authority containing only information stated in that certificate to be taken from a register maintained by the Issuing Authority shall be sufficient evidence of the facts stated therein until the contrary is shown.

(2) In any proceedings a document purporting to be a certificate under paragraph (1) shall be deemed to be such a certificate and to have been signed by an authorised officer of the Issuing Authority, until the contrary is shown.

(3) A certificate under paragraphs (1) or (2) that purports to bear a facsimile signature of the authorised officer of the Issuing Authority concerned or a copy of such signature applied by means of a stamp or produced by a computer shall be deemed for the purpose of this article have been signed by an authorised officer, until the contrary is shown.

PART 5  
ENFORCEMENT

*Appointment and powers of authorised officers*

29. (1) The Issuing Authority and Building Control Authorities may appoint persons to be authorised officers for the purposes of enforcing these Regulations.

(2) An authorised officer—

- (a) shall be furnished with a warrant of his or her appointment, and
- (b) when exercising a power conferred on him or her under these Regulations shall, if requested by any person affected, produce the warrant of his or her appointment.

*Power of authorised officers to enter, inspect etc. buildings*

30. (1) An authorised officer may, for any purpose connected with these Regulations—

- (a) at all reasonable times, enter, inspect and examine a building or any part of a building for the purpose of forming an opinion as to whether or not a BER data file or BER certificate issued for the building, or part of the building, is warranted,
- (b) at all reasonable times, enter, inspect and examine a building or any part of a building for the purpose of forming an opinion as to whether or not a DEC data file or a DEC issued for the building, or part of the building, is warranted, or
- (c) at all reasonable times, enter, inspect and examine a building or any part of a building for the purpose of obtaining any information which the Minister, the Issuing Authority or a Building Control Authority, as the case may be, may require, or for performing a function under these Regulations.

(2) An authorised officer shall not, other than with the consent of the occupier, enter into a private dwelling under this Regulation unless he or she has obtained a warrant from the District Court under paragraph (6) authorising such entry.

(3) Whenever an authorised officer enters a building, or any part of a building, under these Regulations, he or she may—

- (a) take photographs and carry out inspections,
- (b) carry out tests and take samples,
- (c) carry out surveys and examinations,
- (d) examine construction works,

- (e) require information from the owner, or the occupier, of the building,
- (f) require the production of, or inspect, records or documents (including plans and specifications), or take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any records or documents (including plans and specifications),

which the authorised officer, having regard to all the circumstances, considers necessary for the purposes of exercising any function under these Regulations.

(4) An authorised officer shall be entitled to be assisted by such persons, and to bring such equipment, as he or she considers necessary to enable him or her to exercise his or her powers under these Regulations.

(5) A person who—

- (a) fails to permit an inspection of a building under this Regulation,
- (b) without reasonable explanation fails or refuses to comply with any request or requirement made by an authorised officer under this Regulation,
- (c) obstructs, impedes, interferes with or assaults an authorised officer in the exercise of a power under this Regulation,
- (d) gives to an authorised officer information which is false or misleading in a material respect,
- (e) alters, suppresses, or destroys any BER data file, related calculations, BER certificate (including provisional BER certificate), advisory report, book, document or record, including a printed copy thereof, and including electronic data, which the person concerned has been requested or required to produce, or may reasonably expect to be required to produce, or
- (f) alters, suppresses, or destroys any DEC data file, related calculations, DEC, book, document or record, including a printed copy thereof, and including electronic data, which the person concerned has been requested or required to produce, or may reasonably expect to be required to produce,

commits an offence.

- (6) (a) Where an authorised officer in the exercise of his or her powers under these Regulations is prevented from entering any building or any part of a building, or if he or she has reason to believe that evidence related to a suspected offence under these Regulations may be present in any building or any part of a building and that the evidence may be removed therefrom or destroyed, the authorised officer or the person by whom he or she was appointed may apply to the District

Court for a warrant under this paragraph authorising the entry by the authorised officer onto or into the building or any part thereof.

- (b) If, on application being made to the District Court under this paragraph, the District Court is satisfied, on the sworn information of the authorised officer that he or she has been prevented from entering a building or any part of the building, the Court may issue a warrant authorising that person, accompanied, if the Court deems it appropriate by another authorised officer or a member of the Garda Síochána, as may be specified in the warrant, at any time or times within one month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the premises concerned and exercise the powers referred to in paragraphs (1), (3) or (4).

#### *Prosecution*

31. (1) Proceedings for an offence under of these Regulations may be brought and prosecuted by the Building Control Authority or the Issuing Authority as appropriate.

(2) Where an offence under these Regulations is committed by a body corporate, or by an unincorporated body of persons, or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons, and it is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of any person who when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer or member of such body, such other person as well as the body, or the person purporting to act on behalf of the body, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first mentioned offence.

#### *Penalties*

32. A person guilty of an offence under:

(1) Regulations 9(1), 15(1), 16(19), 16(20), 16(21), 16(22), 23(4), 24(4) and 25(5) of these Regulations is liable on summary conviction to a class A fine;

(2) Regulation 30(5) of these Regulations is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 3 months or both.

## PART 6

### MISCELLANEOUS

#### *Heating and air-conditioning systems*

33. (1) The Issuing Authority may, from time to time, take such steps as are necessary to promote advice to the users of heating systems in accordance with the provisions of Article 14(4) of the Directive. Such advice may provide for—

- (a) the replacement of boilers,

- (b) potential modifications to the heating system, and
- (c) alternative solutions to assess the efficiency and appropriate size of the boiler.

(2) The Issuing Authority may, from time to time, take such steps as are necessary to promote advice to the users of air-conditioning systems in accordance with the provisions of Article 15(4). Such advice may provide for—

- (a) the replacement of air-conditioning systems,
- (b) potential modifications to the air-conditioning system, and
- (c) inspections to assess the efficiency and appropriate size of the air-conditioning system.

*Revocation*

34. On and from 9 January 2013, the following are revoked—

- (a) the European Communities (Energy Performance of Buildings) Regulations 2006 (S.I. No. 666 of 2006),
- (b) the European Communities (Energy Performance of Buildings) (Amendment) Regulations 2008 (S.I. No. 229 of 2008), and
- (c) the European Communities (Energy Performance of Buildings) (Amendment) (No. 2) Regulations 2008 (S.I. No. 591 of 2008).

*Transitional arrangements*

35. (1) A BER certificate, and the accompanying advisory report, issued in accordance with the provisions of the Regulations of 2006 shall remain valid for the period of the certificate's validity and that certificate, and accompanying advisory report, shall be deemed to satisfy the provisions under Part 3 of these Regulations.

(2) A provisional BER certificate, and the accompanying advisory report, issued in accordance with the provisions of the Regulations of 2006 shall remain valid for the period of the certificate's validity and that certificate, and the accompanying advisory report, shall be deemed to satisfy the provisions under Part 3 of these Regulations.

(3) A DEC issued in accordance with the provisions of the Regulations of 2006 shall remain valid for the period of the certificate's validity and that certificate shall be deemed to satisfy the provisions of Regulation 14 of these Regulations.

SCHEDULE 1

FORM OF BUILDING ENERGY RATING (BER) FOR DWELLING

DEAP Version X.Y

# Building Energy Rating (BER)

BER for the building detailed below is:

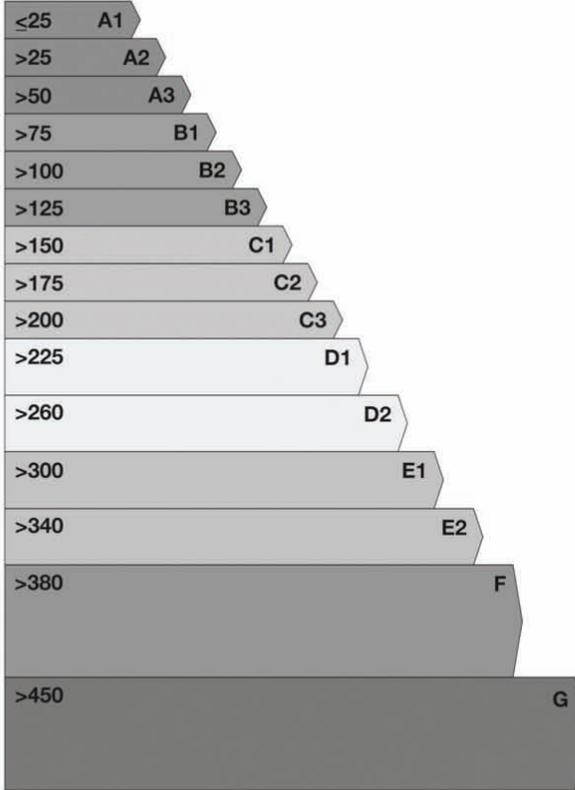
Name of House,  
Street Name One, Street Name Two,  
Town name One, Town Name Two,  
County name One, County name Two,

BER Number: XXXXXXXXXX  
Date of Issue: Day Month Year  
Valid Until: Day Month Year  
BER Assessor No.: XXXX  
Assessor Company No.: XXXX

The Building Energy Rating (BER) is an indication of the energy performance of this dwelling. It covers energy use for space heating, water heating, ventilation and lighting, calculated on the basis of standard occupancy. It is expressed as primary energy use per unit floor area per year (kWh/m<sup>2</sup>/yr).

'A' rated properties are the most energy efficient and will tend to have the lowest energy bills.

**Building Energy Rating**  
kWh/m<sup>2</sup>/yr  
MOST EFFICIENT



LEAST EFFICIENT

**Carbon Dioxide (CO<sub>2</sub>) Emissions Indicator**  
kgCO<sub>2</sub>/m<sup>2</sup>/yr

BEST  
0

WORST  
>120

The less CO<sub>2</sub> produced, the less the dwelling contributes to global warming.

**IMPORTANT:** This BER is calculated on the basis of data provided to and by the BER Assessor, and using the version of the assessment software quoted above. A future BER assigned to this dwelling may be different, as a result of changes to the dwelling or to the assessment software.

SCHEDULE 2

FORM OF PROVISIONAL BUILDING ENERGY RATING (BER) FOR NEW DWELLING

DEAP Version X.Y

**Provisional Building Energy Rating (BER)**

Provisional BER for the building detailed below is:

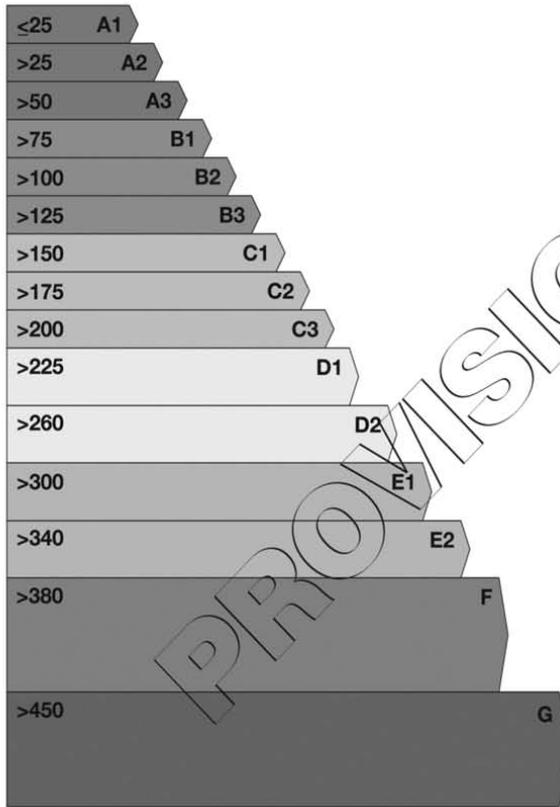
Name of House,  
Street Name One, Street Name Two,  
Town name One, Town Name Two,  
County name One, County name Two,

BER Number: XXXXXXXXXX  
Date of Issue: Day Month Year  
Valid Until: Day Month Year  
BER Assessor No.: XXXX  
Assessor Company No.: XXXX

The Building Energy Rating (BER) is an indication of the energy performance of this dwelling. It covers energy use for space heating, water heating, ventilation and lighting, calculated on the basis of standard occupancy. It is expressed as primary energy use per unit floor area per year (kWh/m<sup>2</sup>/yr).

'A' rated properties are the most energy efficient and will tend to have the lowest energy bills.

**Building Energy Rating**  
kWh/m<sup>2</sup>/yr  
MOST EFFICIENT



LEAST EFFICIENT

**Carbon Dioxide (CO<sub>2</sub>) Emissions Indicator**  
kgCO<sub>2</sub>/m<sup>2</sup>/yr



The less CO<sub>2</sub> produced, the less the dwelling contributes to global warming.

**IMPORTANT:** This provisional BER is calculated on the basis of pre-construction plans and specifications provided to the BER assessor, and using the version of the assessment software quoted above. The BER assigned to this dwelling on completion may be different, in the event of changes to those plans or specifications, or to the assessment software.

SCHEDULE 3

FORM OF BUILDING ENERGY RATING (BER) FOR BUILDING OTHER THAN A DWELLING

NEAP Version X.Y.Z

# Building Energy Rating (BER)

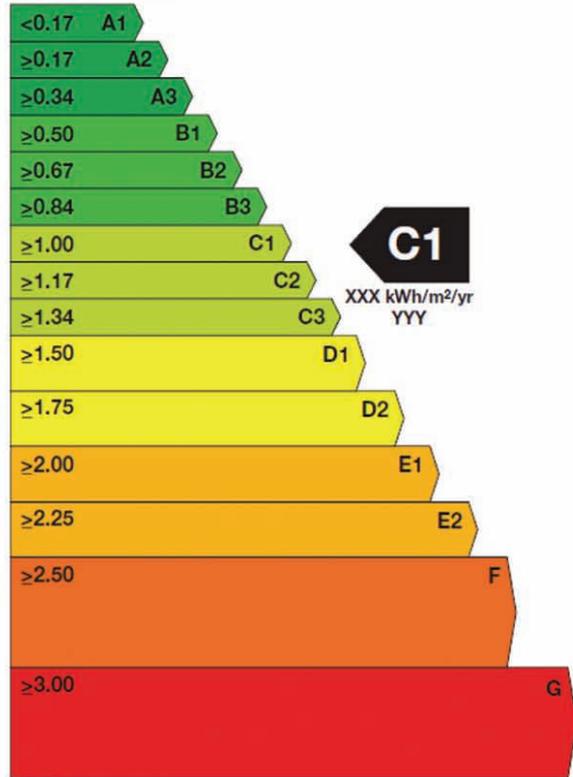
BER for the building detailed below is: **C1**

The Building Energy Rating (BER) is an indicator of the energy performance of this building. It covers energy use for space heating and cooling, water heating, ventilation and lighting, calculated on the basis of standard operating patterns. It is accompanied by a CO<sub>2</sub> emissions indicator. These indicators are expressed as respective ratios of primary energy use and CO<sub>2</sub> emissions, relative to what would apply for a similar building generally satisfying the Building Regulations 2005. 'A' rated properties are the most energy efficient and will tend to have the lowest energy bills.

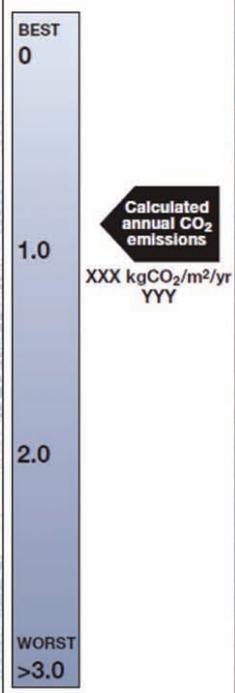
Name of Building,  
Street Name One, Street Name Two,  
Town Name One, Town Name Two,  
County Name One, County Name Two

|                                      |                          |                       |                |
|--------------------------------------|--------------------------|-----------------------|----------------|
| BER Number:                          | XXXX-XXXX-XXXX-XXXX-XXXX | Date of Issue:        | Day Month Year |
| Building Type:                       | XXXXXX                   | Valid Until:          | Day Month Year |
| Useful Floor Area (m <sup>2</sup> ): | XXXXXXXXXXXX             | BER Assessor No.:     | XXXXXX         |
| Main Heating Fuel:                   | XXXXXXXXXXXX             | Assessor Company No.: | XXXXXX         |
| Building Environment:                | XXXXXXXXXXXX             | Assessor Scheme:      | XXXXXX         |

**Building Energy Rating (Indicator)**  
**MOST EFFICIENT**



**Carbon Dioxide (CO<sub>2</sub>) Emissions Indicator**



The less CO<sub>2</sub> produced, the less the building contributes to global warming.

**IMPORTANT:** This BER is calculated on the basis of data provided to and by the BER Assessor, and using the version of the assessment software quoted above. A future BER assigned to this building may be different as a result of changes to the building, its use or the assessment software.



SCHEDULE 5

FORM OF DISPLAY ENERGY CERTIFICATE FOR LARGE BUILDINGS

Software Version X.Y.Z

# Display Energy Certificate

BER for the building detailed below is: **C1**

The BER is based on meter readings of all energy used in the building. The BER and CO<sub>2</sub> indicators are expressed as respective ratios of primary energy and CO<sub>2</sub> emissions relative to a benchmark that represents performance indicative of all buildings of this type. Information on the derivation and interpretation of BER is available at [www.sei.ie/ber](http://www.sei.ie/ber)

## NAME OF BUILDING

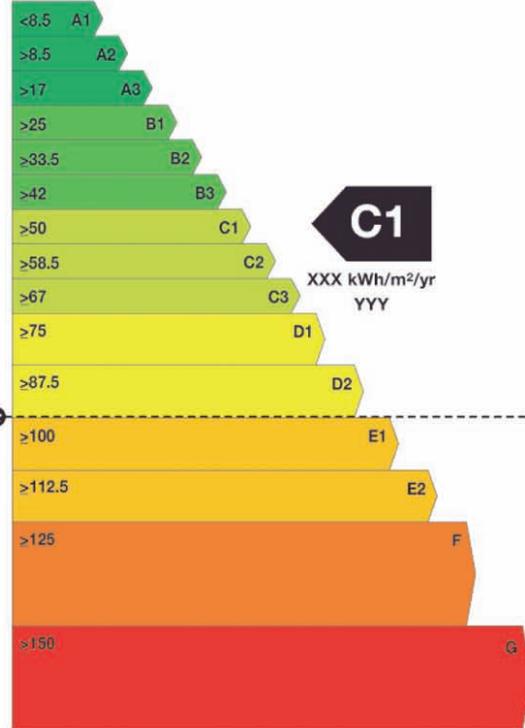
Street Name One, Street Name Two,  
Town Name One, Town Name Two,  
County Name One, County Name Two

Building Type: XXXXXX  
Useful Floor Area (m<sup>2</sup>): XXXXXXXXXXXX  
Main Heating Fuel: XXXXXXXXXXXX  
Building Environment: XXXXXXXXXXXX  
XXXXXXXXXX

BER No.: XXXXXX  
Date of Issue: Day Month Year  
Valid Until: Day Month Year  
Assessor No.: XXXXXX

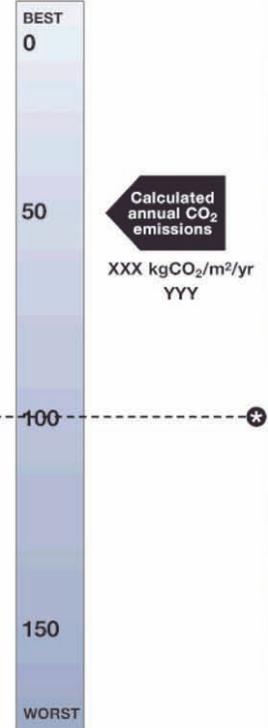
### Building Energy Rating (Indicator)

#### LOW ENERGY USE



**C1**  
XXX kWh/m<sup>2</sup>/yr  
YYY

### Carbon Dioxide (CO<sub>2</sub>) Emissions Indicator



HIGH ENERGY USE

\* Typical building of this type

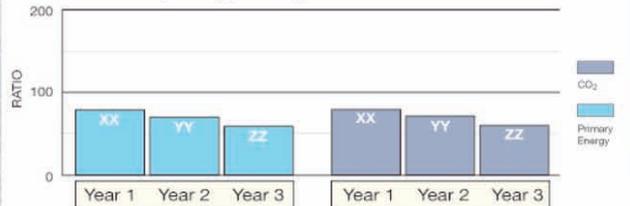
### Annual Energy Use

| THIS BUILDING                           |                                     |
|---|-------------------------------------|
| Non Electrical (kWh/m <sup>2</sup> /yr) | Electrical (kWh/m <sup>2</sup> /yr) |
| XXX                                     | XXX                                 |

| TYPICAL BUILDING OF THIS TYPE           |                                     |
|---|-------------------------------------|
| Non Electrical (kWh/m <sup>2</sup> /yr) | Electrical (kWh/m <sup>2</sup> /yr) |
| XXX                                     | XXX                                 |

### Previous Building Energy Ratings





GIVEN under my Official Seal,  
9 July 2012.

PHIL HOGAN,  
Minister for Environment, Community and Local  
Government.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations provide for the transposition and implementation of Articles 1, 2, 3, 4(2), 6, 7, 11, 12, 13, 14(4), 15(4), 17, 18, 27, 28 and 29 of Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (recast).

Part 2 of these Regulations requires a person who commissions the construction of a new building to examine the technical, environmental and economic feasibility of installing high efficiency alternative energy systems at design stage. This requirement will apply to new buildings for which planning permission is applied for on or after 9 January 2013.

Part 3 of these Regulations provides that a Building Energy Rating (BER) certificate be secured when:—

- a new building is offered for sale or for let on or after 9 January 2013;
- an existing building is offered for sale or for let on or after 9 January 2013.

Where a new building is offered for sale or for let from plans, the Regulations provide that a provisional BER certificate be secured which will be replaced by a final BER certificate on completion of construction. This Part also requires that a building's energy performance indicator be stated in advertisements relating to the sale or letting of the building.

In addition, on or after 9 January 2013, any building in excess of 500 m<sup>2</sup> which is frequently visited by the public is required to display either a BER certificate or a Display Energy Certificate (DEC) in a prominent place clearly visible to members of the public. On and from 9 July 2015, this requirement is extended to all buildings in excess of 250 m<sup>2</sup> which are frequently visited by the public when occupied by public bodies.

Part 4 of these Regulations provides that the Sustainable Energy Authority of Ireland shall be responsible, inter alia, for the administration of the BER system and sets out requirements in relation to the registration of BER assessors, the issue of BER certificates, quality assurance, the maintenance of records, databases and documents, fees and levies, the development of codes of practice for assessors and assessor training providers.

Part 5 of the Regulations provides for enforcement and sets out the powers of authorised officers and the penalties that may apply to any person guilty of an offence under these Regulations.

Part 6 of these Regulations provides that the Sustainable Energy Authority of Ireland may take such steps as are necessary to promote advice to the users of heating and air-conditioning systems in accordance with the alternative approach set out in Articles 14(4) and 15(4), and by extension Article 16, of the Directive.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
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