



COMPETENT PERSON SCHEME

# BESCA TERMS OF REGISTRATION



**BESCA**

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BESCA is committed to ensuring that your privacy is protected. To find out more about how we process your data and your rights, please see our online privacy policy.

# 1 INTERPRETATION

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## 1.1 The following provisions shall apply to the interpretation of these Rules:

- 1.1.1 All references in these Rules to Acts of Parliament, Statutory Instruments, Regulations, Directives of the European Union, codes of practice, specifications and other requirements shall include references to all such which amend or replace them.
- 1.1.2 Words denoting the singular include the plural and vice versa; words denoting any gender include all genders; and words denoting persons include corporations, partnerships, other unincorporated bodies and all other legal entities and vice versa.

## 1.2 Terms used:

In these Rules:

- ✓ "Applicant" means the company, firm, or other body applying to BESCA for inclusion on its Competent Persons Database.
- ✓ "Application" means means the company, firm, or other body applying to BESCA for inclusion on the relevant scheme.
- ✓ "Authorised Inspection Body" means BESCA authorised inspection body, undertaking inspection, assessment and certification.
- ✓ "BESCA" means Building Engineering Services Competence Assessment Limited.
- ✓ "BESCA Appeals Committee" means a panel of volunteers from the Schemes Board who meet when a complaint cannot be resolved in-house by the BESCA Management Team.
- ✓ "BESCA's Certification Requirements " means to be eligible for registration with BESCA, you must prove that your business activities are carried out in accordance with the specific scheme requirements issued or adopted by BESCA.
- ✓ "BESCA Schemes Board" means an independent impartial body set up to monitor and protect the certification activities of BESCA.
- ✓ "BESCA Head of Certification" means the person responsible for driving development of BESCA's certification schemes and oversight of all operational/functional duties and the Quality Standards to which the Schemes are required to operate.
- ✓ "Building Services Controlled Work" means the provision or extension of a controlled services or fittings in or in connection with a building; the material alteration of a building or controlled service or fitting.
- ✓ "Building Regulations" means The Building Regulations 2010 (As Amended)
- ✓ "Building Regulations Work" means the installation, modification or commissioning of heating, hot water, ventilating air conditioning, or plumbing services within the scope of the Building Regulations 2010 (As Amended).
- ✓ "Business Day" means a day which is not a Saturday, Sunday or a public holiday in England and/or Wales (for the avoidance of doubt a public holiday shall include Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday).

- ✓ "Certificate of Registration" means a certificate issued by BESCA to Registrants as evidence of their Registration.
- ✓ "Competent Operative" means an individual who has achieved such qualifications as BESCA may from time to time specify (under clause 2.5) in the case of Competent Person Accredited Certifiers and Competent Installers.
- ✓ "Competent Persons Database" means the register of Registrants maintained by BESCA.
- ✓ "Competent Person Accredited Certifiers" means a competent individual appointed by the Applicant with specific technical competence and knowledge of the Building Regulations, and has responsibility on a day-to-day basis for the safety, technical standards and quality of the in-scope controlled services under his/her supervision who is responsible for the notification of works through the BESCA website.
- ✓ "Competent Installers" means a competent individual appointed by the Accredited Certifier with specific technical competence and knowledge of the Building Regulations, and has responsibility on a day-to-day basis for the safety, technical standards and quality of the relevant in-scope controlled services under his/her supervision
- ✓ "First Stage Appeal" means the review of a decision by BESCA by the BESCA Appeals Committee in accordance with Rule 8.
- ✓ "Local Authority" has the meaning given in section 126 of the Building Act 1984.
- ✓ "Notice" means any notice of a decision, First Stage Appeal, or Appeal Committee or other communication given in accordance with Rule 2.4.
- ✓ "Notification" means a communication made by a Registrant in accordance with Rule 6.10 or a communication made by BESCA in accordance with Rule 6.10.
- ✓ "Notification Charge" means such fee as BESCA shall from time to time specify (in accordance with clause 2.5) to be payable by a Registrant.
- ✓ "Records" means any information, documents, records, or materials retained by BESCA in whatever format concerning a Registrant or Competent Operative.
- ✓ "Registrant" means the person, company, firm, or other body which is responsible for the Building Regulations Work.
- ✓ "Registration" means enrolment on the Competent Persons and "Registered" shall be construed accordingly.
- ✓ "Registration Standards" means the core criteria standards determined by BESCA as set out in Rules 3.1 and 3.2 and as revised from time to time.
- ✓ "Rule and Rules" means any one of these terms or all of these terms of Registration as amended from time to time by BESCA.
- ✓ "Schedule of Fees" means the details of chargeable fees published by BESCA.
- ✓ "Scheme Code of Conduct" means a document which identifies the requirements that a BESCA-accredited Registrant must achieve and maintain.
- ✓ "Scheme Handbook" means a document which sets out the requirements and how applications to join the Scheme are made. The guide includes details on the standards that are to be achieved and gives details of the inspection checklists that will be used to evaluate each applicant or registrant.
- ✓ "Work" means Building Regulations work or other work as the case may be.

## 2 GENERAL

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### 2.1 Relationship:

The relationship between BESCA and an Applicant/Registrant is governed by a contract comprising the following documents: the Application; these Rules; Scheme Code of Conduct; the Scheme Handbook; and any applicable scheme regulations and authorisation documents. In the event of any conflict between the documents these Rules take precedence.

These Rules constitute a legally enforceable agreement between BESCA and an Applicant/Registrant and articulates the responsibilities of BESCA and its client's, failure to abide by and uphold the conditions outlined within these Rules may result in suspension and/or termination of membership of the Scheme.

### 2.2 Information:

- 2.2.1 All information provided by an Applicant in connection with an Application and the copyright therein shall become or remain the property of BESCA and the Applicant waives any moral right under relevant legislation to be attributed as an author.
- 2.2.2 In making an Application the Applicant authorises BESCA to disclose all or part of the information for the purposes of or related to management of, dealing with or compliance with the Building Regulations.
- 2.2.3 BESCA shall advise the successful applicant, prior to entry onto its database, all information it intends to provide in its publically available membership search facility.
- 2.2.4 Where required by Law or authorised by contractual arrangements to release any confidential information, BESCA will notify the Applicant/Registrant of the information being released.
- 2.2.5 Any information obtained about the Applicant/Registrant from sources other than the Applicant/Registrant will be treated as confidential.
- 2.2.6 For more information about how BESCA processes personal data and your rights under data protection legislation, see the BESCA privacy policy at: [www.besca.org.uk/complaints-and-appeals/privacy-policy/](http://www.besca.org.uk/complaints-and-appeals/privacy-policy/)

### 2.3 Time Limits:

All time limits provided in these Rules shall be strictly observed and may be unilaterally varied in writing on notice in accordance with clause 2.5 below, by BESCA without the consent of the Applicant/Registrant.

### 2.4 Notices:

Any Notice to be given hereunder shall be in writing and may be delivered personally or by sending it by pre-paid first class registered post or by email to the intended recipient's address given herein or any other address supplied with reference to and in accordance with this clause to the other party hereto at their address for the purpose of service under the Rules. A Notice delivered personally shall be deemed to have been served on delivery. A Notice sent by post shall be deemed to have been served at an address within the United Kingdom at the expiry of 48 hours from the date of posting and at an address outside the United Kingdom at the expiry of 72 hours from the date of posting. A Notice delivered by email shall be deemed to have been served upon receipt upon the normal confirmation of sending to the correct address, or if that is out of business hours of the recipient, on the next Business Day.

## 2.5 Amendments:

As and when BESCA introduces any new rules or amendments to the existing Rules or notification of any matter relating to them which is of relevance to Registrants and Competent Operatives, BESCA shall ensure these changes are communicated to all Registrants and Competent Operatives in writing by inclusion in BESCA's registration pack or by notice in the BESCA website, or by letter from BESCA to Applicants/Registrants. BESCA retains the right to verify the implementation of these changes by its Registrants and/or Competent Operatives and will take appropriate action where the changes have not been implemented.

## 2.6 Certification and Trademarks:

- 2.6.1 An approved Registrant shall not use BESCA's trade marks or BESCA's certification mark in conjunction with any trading name other than its trading title registered with BESCA.
- 2.6.2 An approved Registrant shall only use BESCA's trade marks, BESCA's certification mark at the head office or branches that are registered with BESCA. BESCA's trade marks and certification mark may not be used in connection with a branch from which Building Services Controlled Work is not carried out unless that branch is registered with the appropriate BESCA scheme.
- 2.6.3 An approved Registrant shall ensure that the use of BESCA's trade marks or BESCA's certification marks within its communication media (for example but not limited to: documents, stationery, brochures, advertising etc.) will comply with BESCA's Brand Guidelines, a copy of which is available on BESCA's website.
- 2.6.4 Should an approved Registrant be required to provide their certification documents to other parties, the documents must be reproduced in their entirety or as specified by BESCA.
- 2.6.5 In the event that Registration is suspended, withdrawn or terminated, the previously Registered enterprise shall immediately return its registration certificate to BESCA and immediately remove of all certification mark and certification logo from any business premises, stationery, brochures and advertisements.
- 2.6.6 The enterprise must take all reasonable steps to ensure all claims made regarding its certification are consistent with the scope of their certification with the scheme. They must also ensure they do not use their certification in such a manner as to bring BESCA into disrepute or make any statement regarding their certification that may be considered misleading or unauthorised by BESCA.
- 2.6.7 BESCA reserves the right to undertake periodic and random surveillance checks on the use of its certification marks

## 2.7 Copyright:

BESCA shall own the copyright and property in the Competent Persons Database and the Registrants hereby authorise BESCA to publish and use it in any way and for any purpose related to Building Regulations.



## 3 RULES FOR GRANTING REGISTRATION

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### 3.1 Certification Requirements:

- ✓ All Applicants and Registrants are obliged to meet the Certification Requirements and must have the knowledge and practical expertise to carry out, manage, direct, supervise, install or inspect Work. They shall:
- ✓ Makes the necessary arrangements for BESCA to undertake an audit of their business processes in accordance with the criteria identified in the Scheme Handbook, including provision for examination of documentation and records and access to relevant equipment, locations, areas, personnel and client's subcontractors;
- ✓ Have access to the technical standards, specifications and Building Regulations that are appropriate to the Work carried out by the Applicant/Registrant;
- ✓ Have one or more individuals that are Competent Operatives, who are able to confirm that the Work that has been carried out complies with the Building Regulations;
- ✓ Employ or use competent individuals that can carry out work so that it complies with the Building Regulations;
- ✓ Report to BESCA within 30 days all completed Work that is within scope of the Building Regulations which has been certified as being compliant;
- ✓ Where required by BESCA, provide their customers with an insurance backed-warranty on such terms as BESCA shall from time to time specify (in accordance with clause 2.5);
- ✓ Allow BESCA access to the Applicant's/Registrant's office for subsequent routine auditing;
- ✓ Be covered by public liability insurance in respect of Work for such amount and on such terms as BESCA shall from time to time specify (in accordance with clause 2.5);
- ✓ Retain a record of all complaints received relating to compliance with the certification requirements including action taken relating to the complaints received and any deficiencies found and make these records available to BESCA on request;
- ✓ Provide BESCA access to its premises and/or sites for any investigation of complaints;
- ✓ Implement appropriate changes as required as and when communicated by BESCA.

### 3.2 Compliance with the Registration Standards:

BESCA is responsible for, and shall retain authority for, its decisions relating to certification. BESCA shall decide in its absolute sole discretion whether Applicants and Registrants meet the Registration Standards in Rule 3.1 in force from time to time.

The decision to certify is made through a recommendation from the Decision Maker and is based on information gathered during the evaluation process and documented. The BESCA Schemes Board, who are not involved in the evaluation process, have the final say on granting of certification.

### **3.3 Certificates of Registration:**

- 3.3.1** A Registrant shall be entitled to a Certificate of Registration once its application has been accepted by BESCA, has paid such amounts as are required by BESCA under its Schedule of Fees and it has successfully completed the business audit as set out in clause 3.1.
- 3.3.2** All Certificates of Registration, and other items issued by BESCA to Registrants, shall remain the property of BESCA and shall be made available for inspection by BESCA and returned on demand.
- 3.3.3** A Registrant shall be able, and shall procure that all Competent Operatives employed by them are able, to prove to third parties on request that they are a Registrant or Competent Operative, as the case may be, and are entitled to carry out the relevant Work by producing a copy of the Certificate of Registration, or by producing some other means of identification that has been approved by BESCA. Registrants shall ensure that their Qualified Operatives are aware that they are subject to these Rules and shall make a copy of these Rules available to them.
- 3.3.4** If the Registrant provides copies of the certification document to others, the document shall be reproduced in their entirety or as specified in the certification scheme.

## **4 APPLICATIONS**

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### **4.1 Applications:**

- 4.1.1** Applications may be made by any company, firm, or other body and shall be submitted to BESCA on its current application form. Registration shall not extend to an Applicant's parent, subsidiary, or associated company or firm which, if seeking Registration, must make a separate application to BESCA.
- 4.1.2** Applications may not be processed until payment of the fees has been received by BESCA in cleared funds. In the event that a Certificate of Registration is issued without the fees being received as cleared funds, the Registration will not be deemed as valid.
- 4.1.3** Applications for registration to the Scheme are not conditional upon the size of the applicant or membership of any other association or group. Certification is also not conditional upon the number of members already accredited to the Scheme.

### **4.2 Fees:**

- 4.2.1** Applications shall be accompanied by such Application fees and Registration fees, as BESCA shall from time to time require in the Schedule of Fees.
- 4.2.2** Application fees will not be refunded if the Application is refused or withdrawn and shall only entitle the Applicant to one pre-Registration assessment. BESCA may permit the Applicant one or more additional pre-Registration assessment(s) on payment of such further fees and subject to the supply of such further information as BESCA shall specify (in accordance with clause 2.5). In cases whereby B&ES members withdraw from proceeding with BESCA registration procedures prior to full membership, BESCA reserve the right to recoup any inspection expenses incurred from the Applicant.
- 4.2.3** Where an Applicant has stated that it has the required qualifications but does not produce evidence thereof satisfactory to BESCA within twenty Business Days of the pre-Registration assessment being carried out, the Application may be refused and the Applicant shall not be entitled to a refund of the Application fee nor to apply for a First Stage Appeal under Rule 8 nor to appeal to arbitration under Rule 9.

### 4.3 Applicant's Information:

By submitting an Application, an Applicant/Registrant warrants to BESCA that:

1. all information it provides to BESCA is true, complete and not misleading; and
2. that it has used its best endeavours to ensure that all information provided to BESCA by third parties at the request of the Applicant/Registrant is true, complete and not misleading; and
3. it has disclosed on the Application form or in accompanying information all information relevant to the Application; and
4. its employees are competent to carry out work within the scope the Building Regulations; and
5. it will notify BESCA without delay of any changes in the information given on the Application form or changes that may affect its ability to conform with the certification requirements under this Rule occurring prior to Registration.

### 4.4 Suspension:

Where it appears to BESCA that an Applicant/Registrant may be in breach of the warranties given under Rule 3.1, BESCA may, in its absolute sole discretion, suspend the Application/Registration of the Applicant/Registrant by Notice or defer the Application while it investigates the matter.

### 4.5 Deferral of Applications:

BESCA may defer Applications that are submitted where an Applicant is the subject of any pending or threatened prosecution or a pending First Stage Appeal under Rule 8 or arbitration under Rule 9.

### 4.6 Conditional Registration:

BESCA may, in its discretion, register an Applicant subject to stated conditions being fulfilled within a timeframe specified by BESCA. If the Applicant does not fulfil the conditions within the timeframe provided, or if no time is so provided, within the period subsequently stipulated by BESCA in a Notice to the Applicant, the Applicant may cease to be a Registrant and will be removed from the Competent Persons Database. BESCA may issue the Applicant's Certificate of Registration stating on the Certificate that it is conditional.

### 4.7 Repeat Applications:

Applications made by an Applicant who has been refused Registration, removed from the Competent Persons Database, or found guilty of an offence under the Energy Act 2011 (As Amended) or Building Regulations may be subject to such special conditions as BESCA may decide.

### 4.8 Decision:

BESCA will decide whether an Applicant meets the BESCA requirements and whether it shall be Registered. In making those decisions BESCA shall take into account all matters of which it is aware including (without limitation) those relating to periods prior to the date of the Application. BESCA shall give Notice to the Applicant of its decision. The Notice shall state the reasons for the decision; the effect of the decision; and the procedure for applying for a First Stage Appeal of the decision under Rule 8.

#### **4.9 Appeal against BESCA's decision:**

An Applicant may by Notice appeal against BESCA's decision on its Application in accordance with Rule 8.

#### **4.10 Advertisement:**

BESCA retains the right to publish or advertise Applications that have been refused.

## **5 INSPECTION BY BESCA**

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### **5.1 Inspection:**

Where required under Rule 3.1 Applicants and Registrants shall permit any duly authorised official of BESCA or its Authorised Inspection Body to undertake an inspection and shall be present if either they are requested to do so by BESCA or they wish to do so. Applicants and Registrants must agree to allow the participation of observers during their inspections, as notified by BESCA or its Authorised Inspection Body.

### **5.2 Complaints:**

Where an inspection is carried out as a result of a complaint received by BESCA about an Applicant, a Registrant or a Competent Operative, BESCA shall inform the Applicant/ Registrant of the nature of the complaint when arranging the inspection.

### **5.3 Report:**

At the conclusion of an inspection the inspector shall inform the Applicant/Registrant of any report or recommendations that he proposes to make and consider any representations made by the Applicant/Registrant relating to them.

### **5.4 Failure to arrange or attend Inspection:**

**5.4.1** Where an Applicant/Registrant does not attend the inspection appointment when requested to do so by BESCA and the Authorised Inspection Body intends to make a report or recommendation based on that inspection, BESCA shall take reasonable steps to communicate the Authorised Inspection Body's proposed report or recommendation to the Applicant/Registrant.

**5.4.2** Where an Applicant/Registrant who has been requested to attend an inspection, without good reason fails to attend the inspection appointment arranged by BESCA, or cancels an arranged inspection without good reason, or with less than ten Business Days Notice, the Applicant/Registrant may by Notice be refused registration, suspended, or removed from the Competent Persons Database.

**5.4.3** BESCA shall, in its absolute sole discretion, decide whether or not an Applicant's or Registrant's failure to attend or cancel the inspection appointment is for good reason.

### **5.5 Non Conformances:**

If the Authorised Inspection Body's report shows that the Applicant/Registrant is likely to meet standards after addressing any identified issues and the Applicant/Registrant expresses interest in continuing the certification process, a recommendation by the Authorised Inspection Body, on behalf of BESCA, will be made to further assess the Applicant/Registrant within a given timescale, providing information regarding the additional evaluation tasks needed to verify that the non conformances have been corrected. A re-inspection may be conducted through the submission of evidence requested by the Authorised Inspection Body or an additional on-site audit by the Authorised Inspection Body.

#### 5.5.1 Reporting structure for non conformances:

1. Major Nonconformity, is where there is objective evidence:
2. that an act or omission may, or has, endangered life.
3. there is an absence of, or failure to implement, one or more required elements of these Rules;
4. a situation which would, on the basis of evidence, raise significant doubt as to the capability of the Applicant/Registrant to achieve, and/or continue to satisfy, one or more of the criteria set out in these Rules;
5. of deliberately misleading or false information being supplied.

#### 5.5.2 Minor Nonconformity:

A minor non-conformance is where one or more unsatisfactory items have been identified, but which are not likely to affect safety, the standard of work, or the ability of the business to implement, or continue to meet, the Required Standard and these Rules, but which could lead to a critical failure if not addressed.

#### 5.5.3 Comment for Action (CFA):

A systems/procedures/technical competence finding that does not conform to the definition of major non-conformity under 5.5.1 or of minor non-conformity under 5.5.2 above and that judgment and experience indicates is not likely to result in failure of Registration or to reduce BESCA's ability to assure controlled processes and service, but does, however, represent an opportunity for improvement.

#### 5.5.4 Action in the event of non-conformity:

Where Applicant/Registrant non-conformities are identified, BESCA shall require the Applicant/Registrant to provide evidence of correction within four weeks for a major nonconformity or eight weeks for a minor nonconformity of the inspection that identified the non-conformance. BESCA will inform the Applicant/Registrant of the implications of non-correction by twelve weeks from the date of inspection. Where a non-conformity is not corrected within twelve weeks of the inspection date, BESCA shall suspend/withdraw certification subject to appeal under Rule 9.

## 5.6 Fees:

5.6.1 Where a Registrant does not produce to BESCA satisfactory evidence of having the required qualifications within twenty Business Days of an inspection, the Registrant will be removed from the Competent Persons Database and will not be entitled to a refund of the Registration fee nor to apply for a First Stage Appeal under Rule 8 nor to appeal under Rule 9.

5.6.2 The fees payable to BESCA in respect of a Registration shall be such fees as BESCA may from time to time specify in accordance with clause 2.5, including (without limitation) fees for applications, re-registrations, inspections, cancellation, and/or re-scheduling of inspections and complaints handling.

## 6 MAINTAINING REGISTRATION

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### 6.1 Re-inspection and renewal:

### 6.2 General:

To maintain their registration all Registrants are required to undergo a satisfactory re-inspection in accordance with the requirements specified in the Scheme Handbook.

### 6.3 Extending and Reducing Scope of Certification:

An Applicant/Registrant can make an application to BESCA to extend or reduce the scope of Registration. In the case of extension to scope, all Registrants are required to undergo a satisfactory inspection in accordance with the requirements specified in the Scheme Handbook.

### 6.4 Refusal or Variation:

BESCA may, in its discretion, refuse to renew a Registrant, or renew Registration subject to conditions under Rule 4.7.

### 6.5 Conditional Re-registration:

6.5.1 BESCA may, in its discretion, renew a Registration subject to stated conditions being fulfilled. If the Registrant does not fulfil the conditions within the period stipulated by BESCA in a Notice to the Registrant, the Registrant shall cease to be a Registrant and shall be removed from the Competent Persons Database.

6.5.2 If BESCA is considering imposing conditions under this Rule it shall give the Registrant Notice of the conditions it is considering imposing, the reasons thereof and that it may make representations to BESCA in respect of the proposed conditions within 10 Business Days of the date the Notice is deemed to have been received by the Registrant.

### 6.6 Notice:

BESCA shall give Notice to the Registrant of its decision not to renew its Registration, or renew it subject to specified conditions. The Notice shall state the reasons for the decision; the effect of the decision; and the procedure for applying for a First Stage Appeal of the decision under Rule 8.

### 6.7 Appeal:

A Registrant may, by Notice within fifteen Business Days of service of BESCA's Notice of its decision under Rule 6.5, appeal against BESCA's decision in accordance with Rule 8.

### 6.8 Transfer of Registrations:

Registrations are not transferable without the consent of BESCA.

## 6.9 Notice of Material Change:

A Registrant must give Notice to BESCA of any material change likely to affect its Registration including, without limitation, changes to its trading or registered name or address, any claims of negligence related to Building Regulation Work, any changes that may affect its ability to confirm with the certification requirements or any other changes affecting its Registration or those of any of its operating centres and branches. Such Notice shall state the date on which the change notified took effect and be sent to BESCA within three Business Days of that date.

BESCA will take into consideration any changes which will affect certification which are likely to affect the Registrant's registration and shall decide upon the appropriate action. Any actions to implement changes affecting certification shall include, if required, evaluation, review, re-registration decision, issue of revised documentation to extend or reduce the scope of certification and issue of revised documentation for surveillance activities.

## 6.10 Notification to Local Authority Building Control by BESCA:

Following receipt of the Registrant's Notification, BESCA shall send a Notification to the appropriate Local Authority Building Control in accordance with regulation 16(4) of the Building Regulations 2010 (As Amended). All Notifications and copies thereof shall become and remain the property of BESCA.

# 7 TERMINATION, REDUCTION, SUSPENSION OR WITHDRAWAL

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## 7.1 Resignation:

- 7.1.1 A Registrant may resign from the Competent Person Database by giving Notice to BESCA.
- 7.1.2 In the event of termination hereunder, all outstanding fees and sums due to BESCA will be immediately payable.
- 7.1.3 A resignation shall take effect from the date when the Notice is received by BESCA.

## 7.2 Removal:

- 7.2.1 BESCA may in its absolute sole discretion, remove a Registrant from the Competent Person Database.
- 7.2.2 If BESCA is considering removing a Registrant from the Competent Person Database and under this Rule it shall give the Registrant Notice that it proposes to remove it, the reasons thereof and that it may make representations to BESCA in respect of the proposed removal within ten Business Days of the date the Notice is deemed to have been served by the Registrant.

## 7.3 Suspension:

- 7.3.1 BESCA may, in its absolute sole discretion, by a Notice to the Registrant suspend its Registration.
- 7.3.2 BESCA may suspend a Registration without giving the Registrant any Notice, or the opportunity to comment, in cases where it reasonably believes it is necessary to do so in the interests of the safety of the public. Such Notice will take effect immediately.
- 7.3.3 A suspension under Rule 7.3.1 shall take effect on the date specified in the Notice by BESCA.
- 7.3.4 Where appropriate, if Building Regulations have been contravened, BESCA shall inform the relevant Local Authority Building Control.

#### **7.4 Notice:**

1. Any Notice issued by BESCA under Rules 7.2 or 7.3 shall state:
2. the reasons for the decision including details of any Records taken into account; and
3. the date the removal, condition or suspension is to become effective; and
4. the actions or conditions required to end the suspension or removal and restore certification in accordance with the certification scheme or any other actions required by BESCA; and
5. if removal or suspension is only to become effective if certain conditions are not fulfilled, the date by which they are to be fulfilled; and
6. the effects of the decision; and
7. where appropriate, the procedure for applying for a First Stage Appeal under Rule 8.

#### **7.5 Advertisement:**

BESCA may publish or advertise the details of any conditional registration, resignation, removal, or suspension of a Registrant from the Competent Person Database.

#### **7.6 First Stage Appeal:**

A Registrant that receives a Notice under Rule 7.4 may write to BESCA within fifteen Business Days of service of BESCA's Notice to appeal against BESCA's decision in accordance with Rule 8.

#### **7.7 Appeal Committee:**

Where the suspension or removal of a Registrant or the conditions to which it is subject is confirmed by a First Stage Appeal, the Registrant may, by Notice received by BESCA within fifteen Business Days of service of the First Stage Appeal Committee's decision, further appeal in accordance with Rule 9.

#### **7.8 Conduct:**

A Registrant that resigns from or whose name is removed from the Register shall not exhibit or cause to be exhibited the Certificate of Registration, nor make any use of any associated identity card, BESCA's name, trade marks, style or any BESCA display material in any form or material whatsoever. The Certificate of Registration, and all other documents or materials owned by BESCA shall immediately be returned to BESCA.

#### **7.9 Refunds:**

A Registrant who resigns, or is suspended, or is removed from the Register, shall not be entitled to a refund or credit in respect of any fees paid or payable to BESCA.



## **8 COMPLAINTS AND FIRST STAGE APPEAL – BESCA APPEALS COMMITTEE**

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### **8.1 8.1 Complaint:**

A complaint to BESCA may be received from any source. A complaint submitted to BESCA will be investigated to obtain comments from all of the parties involved and to ascertain if the complaint relates to certification activities for which BESCA is responsible. Complaints may be referred to BESCA's Appeals Committee, where appropriate, and in all cases the independent and impartial BESCA Appeals Committee will be informed. BESCA will acknowledge receipt of any complaint received within 7 days of receipt.

### **8.2 8.2 Types of Complaint:**

1. A serious complaint is one where there is evidence:
2. Of a deliberate disregard of the requirements of the Building Regulations by an Applicant, a Registrant or a Competent Operative;
3. That an act or omission of an Applicant, a Registrant or a Competent Operative may have, or has, endangered life;
4. Of deliberately misleading or false information being given to BESCA by an Applicant, a Registrant or a Competent Operative;
5. Of a failure to comply with these Rules by an Applicant, a Registrant or a Competent Operative.

As a result of a complaint received by BESCA about an Applicant, a Registrant or a Competent Operative, BESCA's Appeals Committee shall inform the Applicant/Registrant of the nature of the complaint and arrange an inspection under Rule 5.2.

### **8.3 Right of Appeal:**

1. A First Stage right of appeal to BESCA's Appeals Committee is available when:
2. An Applicant has been refused registration
3. A Registrant has been given notice that its registration is to be suspended or withdrawn
4. An individual has been refused Competent Operative status,
5. An individual has been given notice that their Competent Operative status is to be suspended or Withdrawn

### **8.4 Information:**

**8.4.1** An appeal must be made in writing to the BESCA Appeals Committee.

**8.4.2** A party that makes an appeal shall supply to BESCA's Appeals Committee such information concerning the appeal as BESCA shall require. Such information shall be supplied within ten Business Days of BESCA's Appeals Committee's request and if it is not so supplied within this time, the First Stage Appeal may, but need not, be deferred.

## 8.5 Conduct:

First Stage Appeals shall be carried out by the BESCA Appeals Committee. The BESCA Appeals Committee shall review the Records, the appeal and supporting documentation and further information supplied in response to any BESCA Appeals Committee request with a view to reaching their decision. The BESCA Appeals Committee may request the further information within such time as they shall decide.

## 8.6 Decision of the BESCA Appeals Committee:

- 8.6.1 Subject to Rule 8.4.2, the BESCA Appeals Committee shall reach their decision within twenty Business Days of the date the appeal was received by BESCA's Appeals Committee unless it is deferred because the Registrant or Qualified Installer has failed to provide information requested by BESCA's Appeals Committee under Rule 8.4 or Rule 8.5.
- 8.6.2 Where a First Stage Appeal relates to the suspension of a Registrant or Qualified Installer, the BESCA Appeals Committee shall reach their decision as soon as is reasonably practicable.
- 8.6.3 The BESCA Appeals Committee's decision shall not be limited to the confirmation or overruling of BESCA's decision, but they may substitute any other decision that BESCA could have made.
- 8.6.4 The party who requested the appeal will be notified of the BESCA Appeals Committee's decision in accordance with Rule 2.4 together with a summary of the reasons, an explanation of the effect of the decision and the right of appeal under Rule 9.
- 8.6.5 The BESCA Appeals Committee's decision will take effect when the party requesting the appeal receives Notice of it from the BESCA Appeals Committee.

# 9 APPEAL – ARBITRATION

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## 9.1 Right of Appeal – Arbitration:

Providing that the Appeals process in Rule 8 has been exhausted an Applicant/Registrant shall have the right of appeal to an arbitrator appointed by the President for the time being of the Chartered Institute of Arbitrators and the decision of such arbitrator as set forth in any report or award signed by him shall be final and binding as between the Applicant/Registrant and BESCA.

## 9.2 Grounds of Appeal:

1. An appeal to an arbitrator under Rule 9.1 may only be made on the following grounds:
2. Unfair conduct by the BESCA Appeals Board in reaching its decision; and/or,
3. Unfair application by the BESCA Appeals Board in respect of the issuance or withdrawal of Registration; and/or
4. Incorrect application by the BESCA Appeals Board of the Registration Standards.

## 10 WARRANTIES AND LIABILITIES

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- 10.2.1 BESCA shall have no liability to the Applicant/Registrant for any loss, damage, costs, expenses or other claims for compensation arising from any material or instructions supplied by the Applicant/Registrant which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Applicant/Registrant.
- 10.2.2 Except in respect of death or personal injury caused by BESCA 's negligence, or as expressly provided in these Rules, BESCA shall not be liable to the Applicant/Registrant by reason of any representation, or any implied warranty, condition or other term, or any duty at common law or under statute, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of BESCA , its servants or agents or otherwise) which arise out of or in connection with the services which it provides under these Rules or their use by the Applicant/Registrant and the entire liability of BESCA under or in connection with the contract between BESCA and the Applicant/Registrant shall not exceed the amount which has actually been paid by the Applicant/Registrant to BESCA for the provision of the services.
- 10.2.3 BESCA shall use reasonable endeavors to meet the timescales set out in the Agreement and shall not be liable for any losses arising from any delay.
- 10.2.4 Registration does not imply or express any warranty of any kind with respect to the Applicant's/Registrant's Work, and BESCA assumes no responsibility for defects, failure in service or infringement of patents, trademarks or brands.
- 10.2.5 The Applicant/Registrant agrees to indemnify BESCA against any losses suffered by or claims made against BESCA as a result of any breach by the Applicant/Registrant of these Rules including, but not limited to, misuse by the Applicant/Registrant of any Registration granted by BESCA under these Rules.

## 11 GOVERNING LAW

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These Rules shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

**BESCA is committed to ensuring that your privacy is protected. To find out more about how we process your data and your rights, please see our online privacy policy.**