

# Enforcement Machinery under Energy Conservation Act, 2001

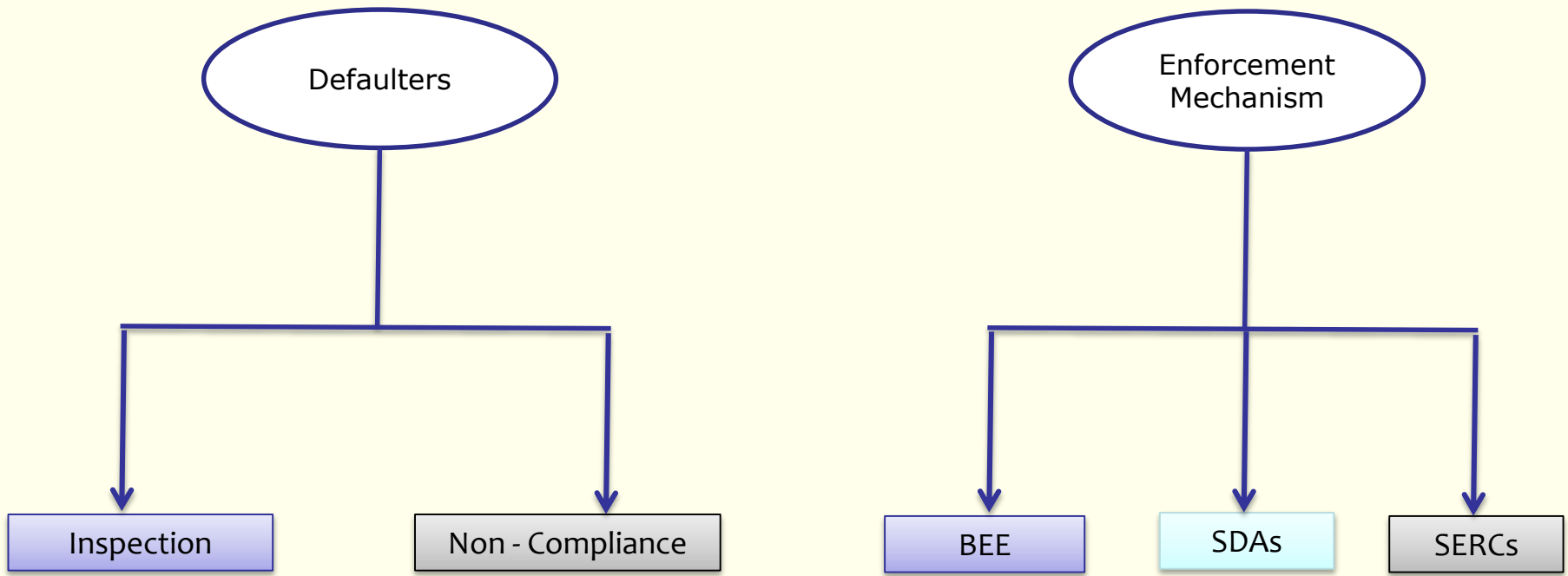
PAT Regional Workshop

# Energy Conservation Act, 2001

The **Energy Conservation (EC) Act 2001** provides the legal framework for promoting energy conservation and energy efficiency activities which include:

- Standards and Labels for appliances & equipment
- Energy Consumption norms for Energy Intensive Units
- Energy Conservation Building Code (ECBC) for commercial buildings.
- Demand Side Management (DSM) programmes for existing buildings, streetlights, agricultural pumping and SMEs.
- Certification of Energy Auditors and Managers
- States to notify State Designated Agencies (SDAs) to enforce Act in states – 35 SDAs notified including Jammu & Kashmir.

# Nature of Defaulters & Enforcement Mechanism



# Penalty Provisions

- ❖ liable to a penalty which shall not exceed ten lakh rupees for each such failure and, in the case of continuing failure :
  - additional penalty which may extend to ten thousand rupees per day (**Appliances & Buildings** )
  - additional penalty which shall not be less than the price of every metric ton of oil equivalent of energy (**Industries**)

# Inspection

S.No.	Category	Section of Act to be referred in case of non-compliance
1.	Appliances, Buildings & Industries	<p><b>Rule 5 : Procedure for Inspection under Inspection Rules, 2010</b>  <b>Proposed Sub – Rule (4) under Rule (3) – Inspecting Officer :</b>            (a)“while carrying out inspection of-</p> <ul style="list-style-type: none"> <li>(i)plants or building or building complex of designated consumers’ for ensuring compliance with the energy consumption norms or standards or the energy conservation building codes as specified under clause (a) or clause (g) or clause (n) or clause (p) of section 14; or</li> <li>(ii)manufacturer’s premises for ensuring compliance with the provisions of clause (d) of section 14; or</li> <li>(iii)energy intensive industries for ensuring compliance with the provisions of clause (h)of section 14 :</li> </ul> <p>Provided that the accredited energy auditor or professional chosen for consultation shall not have undertaken energy audit or done anything in relation to such plants of designated consumers’ or energy intensive industries or manufacturer’s premises during the previous four years from the date of inspection which may cause conflict of interest</p>

# Inspection

S.No.	Category	Section of Act to be referred in case of non-compliance
2.	Appliances	<p><b>Rule 5 : Procedure for Inspection under Inspection Rules, 2010</b>  <b>Proposed Sub – Rule (10) under Rule 5 – Procedure of Inspection :</b>  <i>Where a decision has been taken to undertake inspection to ensure display of particulars on label affixed to an equipment, such inspection shall be as per check-list given in Form 1 annexed to these rules and include –</i></p> <ol style="list-style-type: none"> <li><i>a. inspection of a place where business in connection with manufacture or production or assembling of the said equipment takes place and include manufacturers’ premises, warehouses, godowns, store rooms, distributors ‘or traders’ or sellers’ premises and retail outlet situated all over the country to ensure that no model of the said equipment is manufactured or imported or purchased or stored or sold without a label;</i></li> <li><i>b. inspection of models for which directions have been issued by the Bureau for their withdrawal from the market on account of failure of second test-check</i></li> <li><i>c. the manner of display of label affixed to an equipment and accuracy of particulars displayed on the label;</i></li> <li><i>d. inspection of promotional or advertising materials in respect of the said equipment.</i></li> </ol>

# Inspection

S.No.	Category	Section of Act to be referred in case of non-compliance
3.	Industries	<p><b>Rule 5 : Procedure for Inspection under Inspection Rules, 2010</b>  <b>Proposed Sub – Rule (11) under Rule 5 – Procedure of Inspection :</b>  <i>Where a decision has been taken to undertake inspection to ensure compliance with the direction issued to the designated consumers' under clause (n) of section 14, such inspection shall include --</i></p> <ul style="list-style-type: none"> <li><i>a. inspection of energy intensive industries specified in the schedule to the Act to check the total energy consumption of the plant to ensure compliance including whether the plant is a designated consumer and meets the notified threshold energy consumption limit specified for the respective sectors in the notification issued under clause (e) of section 14;</i></li> <li><i>b. inspection of the details in respect of energy manager appointed or designated by the designated consumers and status of energy consumption submitted annually under clause (l) of section 14 with reference to the documents and records of the said designated consumers' in terms of direction issued to the said' designated consumers' under the said clause;</i></li> <li><i>c. inspection of the information with regard to the energy consumed and action taken on the recommendations of the accredited energy auditor with reference to the documents and records of the designated consumers' in terms of the direction issued under clause (k) of section 14;</i></li> </ul>

# Non-Compliance

S.No.	Category	Section of Act to be referred in case of non-compliance
1.	Appliances	<p><b>Section 14 Power of Central Government to enforce efficient use of energy and its conservation</b></p> <ul style="list-style-type: none"> <li>• <b>Section 14 (c)</b> <i>prohibit manufacture or sale or purchase or import of equipment or appliance specified under clause (b), unless such equipment or appliance conforms to energy consumption standards:</i></li> <li>• <b>Section 14(d)</b> <i>direct display of such particulars on label on equipment or on appliance specified under clause (b) and in such manner as may be specified by regulations</i></li> </ul>



# Non-Compliance

S.No.	Category	Sub - Category	Section of Act to be referred in case of non-compliance
2.	Buildings	PAT Form – I, Reporting, Monitoring & Verification	<ul style="list-style-type: none"> <li>• <b>Section 14(r)</b> direct every owner or occupier of the building or building complex, being a designated consumer to comply with the provisions of energy conservation building codes for efficient use of energy and its conservation;</li> <li>• <b>Section 14(s)</b> direct, any designated consumer referred to in clause (r), if considered necessary, for efficient use of energy and its conservation in his building to get energy audit conducted in respect of such building by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;</li> </ul>

# Non-Compliance

S.No.	Category	Sub - Category	Section of Act to be referred in case of non-compliance
3.	Industries	Undertaking Mandatory Energy Audit	<ul style="list-style-type: none"> <li>• <b>Section 14(h)</b> direct, having regard to quantity of energy consumed or the norms and standards of energy consumption specified under clause (a), the Energy Intensive Industries specified in the Schedule to get energy audit conducted by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;</li> <li>• <b>Section 14(i)</b> direct, if considered necessary for efficient use of energy and its conservation, any designated consumer to get energy audit conducted by an accredited energy auditor;</li> </ul>

# Non-Compliance

S.No.	Category	Sub - Category	Section of Act to be referred in case of non-compliance
3.	Industries	Implementation of recommendations of Mandatory Energy Audit	<ul style="list-style-type: none"> <li> <b>Section 14(k)</b>  <i>direct any designated consumer to furnish to the designated agency, in such form and manner and within such period, as may be prescribed, the information with regard to the energy consumed and action taken on the recommendation of the accredited energy auditor;</i> </li> <li> <b>Section 14(l)</b>  <i>direct any designated consumer to designate or appoint energy manager in charge of activities for efficient use of energy and its conservation and submit a report, in the form and manner as may be prescribed, on the status of energy consumption at the end of every financial year to the designated agency;</i> </li> </ul>

# Non- Compliance

S.No.	Category	Sub - Category	Section of Act to be referred in case of non-compliance
3.	Industries	PAT Form -I, Reporting, Monitoring & Verification	<ul style="list-style-type: none"><li>• <b>Section 14(n)</b> <i>direct every designated consumer to comply with energy consumption norms and standards;</i></li></ul>

# Roles of SDAs

## ❖ Inspection

In case of defaulters identified during the time of inspection, the provisions of Inspection Rules, 2010 have clearly stated the inspecting officers of the SDAs will prepare the inspection reports and the inspecting officer (appointed by the SDAs) should be responsible for filing petition with the SERCs who will subsequently, initiate adjudication process.

## ❖ Non – Compliance

For defaulters identified through non-compliance, it has been stated under Section 27(2) that the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry. In view of this, BEE can directly pursue with adjudicating officer for undertaking necessary action against non-complying units.

# Issues pertaining to Role of SDAs

Issue	Recommendation
<p>SDAs have mentioned that they were unable to appoint inspecting persons who meets present qualification criteria as per Inspection Rules, 2010.</p>	<p>Based on the recommendations received from SDAs the amendments to inspection rules were proposed for which notification is expected soon.</p>
<p><i>As per Section 27(2), the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry.</i></p> <p>BEE / SDA may file non-compliance cases in the respective SERCs.</p>	<p>BEE is pursuing with Ministry of Law for clarification for this issue and based on the clarification received petition will be filed by BEE or SDA with the respective SERCs.</p>

# SERCs : Power to Adjudicate

- ❖ Section 27 of the Energy Conservation Act empowers the SERCs to appoint any of its members to be an Adjudicating Officer for holding an inquiry in such manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.
- ❖ While conducting the enquiry, adjudicating officer have all the power to issue summon and enforce the attendance of any person who as per the adjudicating is acquainted with facts and circumstances related to the case and is capable of presenting evidence or any document which may be useful for or relevant to the subject matter of the enquiry.
- ❖ Upon such enquiry, after giving a reasonable opportunity to the person to represent, if adjudicating officer is satisfied that the person has failed to comply with the provisions of any of the clauses of sections specified in the section 26, he may impose such penalty as he thinks fit in accordance with the provisions of any of those clauses of that section.
- ❖ While adjudicating the quantum of penalty under section 26, the adjudicating officer shall give due regard to the following factors, namely :-
  - Amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
  - Repetitive nature of the default.

# Issues pertaining to SERCs

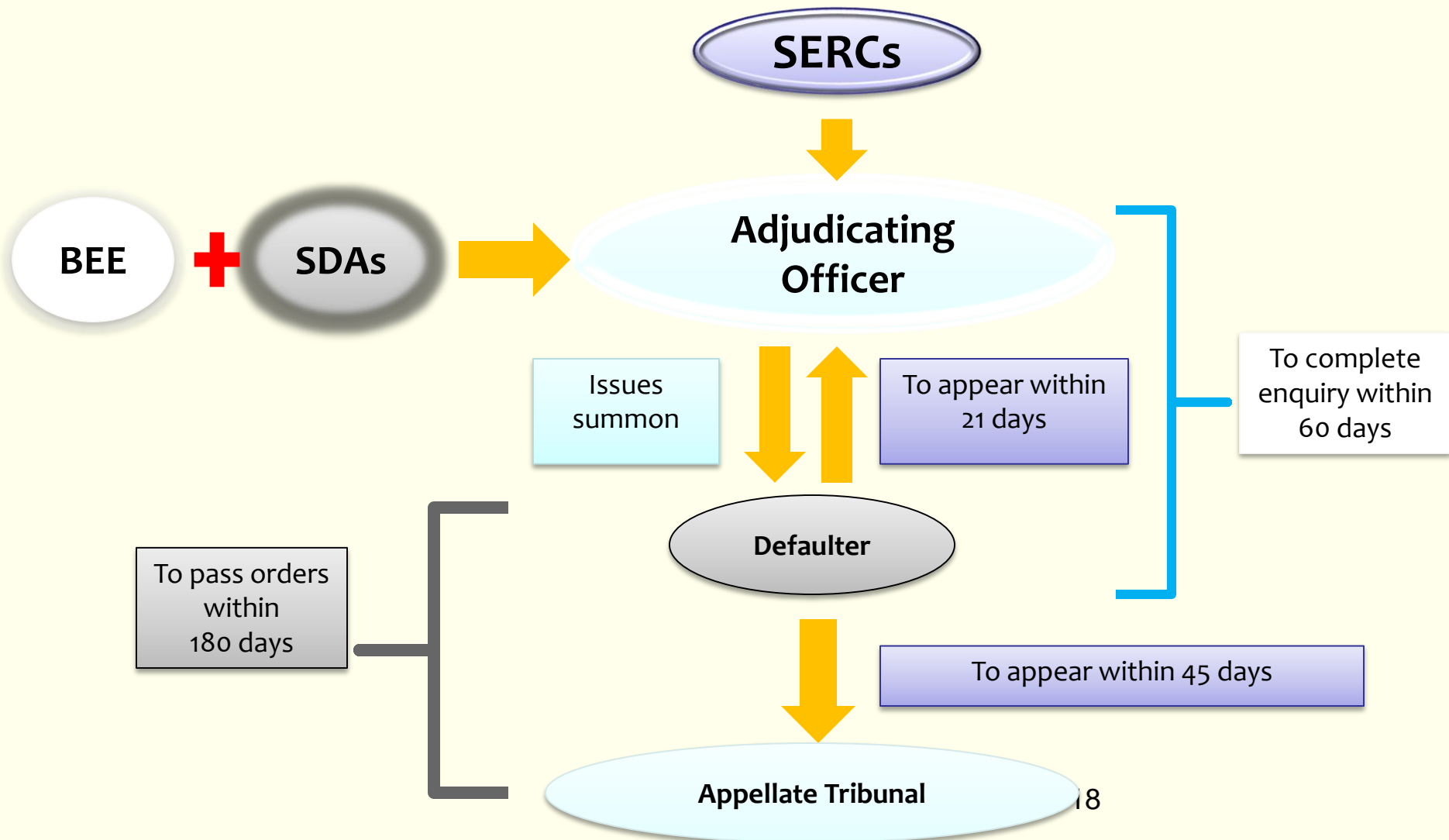
Issue	Recommendation
<p>The Bureau is pursuing the matter with the CERC/SERCs regarding appointment of Adjudicating Officers. However, the response from the SERCs has not very encouraging.</p>	<p>SERCs may expedite appointment of Adjudicating Officers. As on date, only 2 states have appointed Adjudicating Officer.</p>



# Roles of Appellate Tribunal

- ❖ No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.
- ❖ Exercising the powers conferred under Section 56 of the Energy Conservation Act, 2001, the Central Government came up with the GSR 25, dated 21.3.2009, stipulating the manner of holding inquiry by the adjudicating officers.

# Adjudication Process Flow



# Thank You !!

Website: [www.beeindia.gov.in](http://www.beeindia.gov.in)