

In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following in English translation of Notification No.1438/

Eight-3-16-65Vidh/16 dated. x., 2016

27 Oct.

NOTIFICATION

No.1438/ Eight-3-16-65 Vidh/16

Lucknow: Dated: 27 October, 2016

In exercise of the powers conferred under section-84 of the Real Estate (Regulation and Development) Act, 2016, the Governor is pleased to make the following rules, namely:

The Uttar Pradesh Real Estate (Regulation and Development) Rules, 2016

CHAPTER I
PRELIMINARY

1-(1) These rules may be called the 'Uttar Pradesh Real Estate (Regulation and Development) Rules, 2016.'

Short title,
commencement and
extent

(2) They shall come into force with effect from the date of their publication in the Gazette.

Definitions

(3) They shall be applicable to the whole of Uttar Pradesh in these rules, unless the context otherwise requires, -
(a) "Act" means the Real Estate (Regulation and Development) Act, 2016;
(b) "Annexure" means an annexure appended to these rules;
(c) "authenticated copy" shall mean a self-attested copy of any document required to be provided by any person under these rules;
(d) "common area" mean:
(i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase, the entire land for that phase;
(ii) the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;
(iii) the common basements, terraces, parks, play ground, open parking areas and common storage spaces;
(iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;

(v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;

(vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;

(vii) all community and commercial facilities as provided in the real estate project;
(viii) only those facilities which have been provided as common areas in the real estate project.
(viii) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;

(e) "Form" means a form appended to these rules;

(f) "Government" means the Government of Uttar Pradesh;

(g) "layout plan" means a plan of the project depicting the division of proposed division of land into plots, roads, open spaces, amenities, etc. and other details as may be necessary;

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- (a) authenticated copy of the PAN card of the promoter;
- (b) audited balance sheet of the promoter for the preceding financial year and income tax returns of the promoter for three preceding financial years;
- (c) the number of open parking areas available in the said real estate project;
- (d) copy of the legal title deed reflecting the title of the promoter to the land on which development is proposed to be developed along with legally valid documents with authentication of such title, if such land is owned by another person;
- (e) the details of encumbrances on the land on which development is proposed including any rights, title, interest or name of any party in or over such land along with details;
- (f) where the promoter is not the owner of the land on which development is proposed details of the consent of the owner of the land along with a copy of the collaboration agreement, development agreement, joint development agreement or any other agreement, as the case may be, entered into between the promoter and such owner and copies of title and other documents reflecting the title of such owner on the land proposed to be developed;
- (g) such other information and documents, as may be specified by regulations.

Information and documents to be furnished by the promoter for registration of Project:-

3-(1) The promoter shall furnish the following additional information and documents, along with those specified under the relevant sections of the Act, for registration of the real estate project with the regulatory authority namely:-

**CHAPTER II
REAL ESTATE PROJECT**

- (h) "ongoing project" means a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill any of the following criteria on the date of notification of these rules:
 - (i) where services have been handed over to the Local Authority for maintenance.
 - (ii) where common areas and facilities have been handed over to the Association or the Residents' Welfare Association for maintenance.
 - (iii) where all development work have been completed and sale/lease deeds of sixty percent of the apartments/houses/plots have been executed.
 - (iv) where all development works have been completed and application has been filed with the competent authority for issue of completion certificate.
- (i) "project land" means any parcel or parcels of land on which the project is developed and constructed by a promoter;
- (j) "section" means a section of the Act;
- (k) "Selection Committee" means the Selection Committee constituted under section-22 of the Act in accordance with these rules;
- (l) "Search Committee" means the Search Committee constituted under these rules to assist the Selection Committee; and
- (2) Words and expressions used and not defined in these rules but defined in the Act, shall have the same meaning respectively assigned to them in the Act.

- (2) The application referred to in sub-section (1) of section 4 shall be made in Form A, which shall be submitted in triplicate, until the application procedure is made web based as provided under sub-section (3) of section 4.
- (3) The promoter shall pay a registration fee at the time of application for registration by way of a demand draft drawn on any nationalized or scheduled bank, for a sum calculated at the rate of:-
 - (a) rupees twenty per square meter for commercial projects where the area of land proposed to be developed does not exceed one thousand meters and rupees one thousand for every hundred square meter or part thereof where the area of land proposed to be developed exceeds one thousand square meters.
 - (b) rupees ten per square meter for residential or any other projects where the area of land proposed to be developed does not exceed one thousand square meters and rupees five hundred for every hundred square meter or part thereof where the area of land proposed to be developed exceeds one thousand square meters.
- (4) The declaration to be submitted under clause (1) of sub-section (2) of section 4, shall be in Form B.
- (5) In case the promoter applies for withdrawal of application for registration of the project before the expiry of the period of 30 days provided under sub-section (1) of section 5, registration fee to the extent of ten percent paid under sub-rules (3) or rupees fifty thousand whichever is more, shall be retained as processing fee by the regulatory authority and the remaining amount shall be refunded to the promoter within thirty days from the date of such withdrawal.
- (4-1) Upon the notification for commencement of sub-section (1) of section 3, promoters of all ongoing projects which have not received completion certificate shall, within the time specified in the said subsection, make an application to the authority in the form and manner provided in Rule 3.
- (2) The promoter shall disclose all project details as required under the Act and the rules and regulations made thereunder, including the status of the project and the extent of completion.
- (3) The promoter shall disclose the size of the apartment based on carpet area even if earlier sold on any other basis such as super area, super built up area, built up area etc. which shall not affect the validity of the agreement entered into between the promoter and the allottee to that extent.
- (4) In case of plotted development the promoter shall disclose the area of the plot being sold to the allottees.
- (5-1) For the purposes of sub-clause (D) of clause (1) of sub-section (2) of section 4, the land cost shall be the cost incurred by the promoter, whether as an outright purchase, lease charges and will include the charges incurred to obtain the approval of the competent authority.
- (2) For the purposes of sub-clause (D) of clause (1) of sub-section (2) of section 4, the construction cost shall be the cost incurred by the promoter, towards the on-site expenditure for the physical development of the project.
- (6-1) Upon the registration of a project as per section 5 read with Rule 3, the authority shall issue a registration certificate with a registration number in Form C to the promoter.
- (2) In case of rejection of the application as per section 5 the regulatory authority shall inform the applicant in Form D.
- (7-1) The registration granted under section 5, may be extended as per section 6, on an application made by the promoter in Form B which shall not be less than three months prior to the expiry of the registration granted.
- (2) The application for extension of registration shall be accompanied with a demand draft drawn on any scheduled bank, for an amount equivalent to twice the registration fee as prescribed under sub-rule (3) of rule 3

Disclosure by promoters of existing projects.-

Withdrawal of sums deposited in separate account.-

Grant or rejection of the registration of the project.-

Extension of registration of the project.-

along with an explanatory note setting out the reasons for delay in the completion of the project and the need for extension of registration for the project, along with documents supporting such reasons:
 Provided that where extension of registration is due to force majeure the authority may at its discretion waive the fee for extension of registration.

- (3) Extension of registration of the project shall not be beyond the period provided as per local laws for completion of the project or phase thereof, as the case may be.
- (4) In case of extension of registration, the regulatory authority shall inform the promoter about the same in Form F and in case of rejection of the application for extension of registration the regulatory authority shall, after giving an opportunity to the applicant to be heard in the matter as per second proviso of section 6, inform the promoter about the same in Form D:
- 8- Upon the revocation of registration of a project as per section 7 the regulatory authority shall inform the promoter about such revocation in Form D.

Revocation of the project-
 Registration of the

CHAPTER III REAL ESTATE AGENT

- 9-(1) Every real estate agent required to register as per sub-section (2) of section 9 shall make an application in writing to the Regulatory Authority in Form G along with the following documents, namely:-
 (a) brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies etc.);
 (b) particulars of registration including the bye-laws, memorandum of association, articles of association etc. as the case may be;
 (c) photograph of the real estate agent if it is an individual and the photograph of the partners, directors etc. in case of other entities;
 (d) authenticated copy of the PAN card;
 (e) income tax returns filed under the provisions of the Income Tax Act, 1961 for three financial years preceding the application or in case the applicant was exempted from filing returns under the provisions of the Income Tax Act, 1961 for any of the three year preceding the application, a declaration to such effect;
 (f) authenticated copy of the address proof of the place of business; and such other information and documents, as may be specified by regulations.
 (2) The real estate agent shall pay a registration fee at the time of application for registration by way of a demand draft drawn on any scheduled bank, for a sum of rupees twenty-five thousand in case of the applicant being an individual; or rupees two lakh fifty thousand in case of the applicant being anyone other than an individual.

Application for
 Registration by the real
 estate agent-

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- (A) a brief detail of his enterprise including its name, registered address, type of enterprise (proprietorship, limited liability partnership, society, partnership, company, competent authority) and the particulars of registration and in case of a newly incorporated or registered entity, brief details of the of the parent entity including its name, registered address, type of enterprise (proprietorship, societies, limited liability partnership, partnership, companies, competent authority);
- (B) background of promoter- educational qualification, work experience and in case of a newly incorporated or registered entity work experience of the parent entity.

(a) Details of the promoter including the following:

- (i) Developer or Group Profile:
- 14(1) For the purpose of clause (b) of section 34, the regulatory authority shall ensure that the following information shall be made available on its website in respect of each project registered:

Details to be published on the website-

**CHAPTER IV
DETAILS TO BE PUBLISHED ON THE WEBSITE OF THE AUTHORITY**

- 10(1) Upon the registration of a real estate agent as per section 9 read with Rule 10, the authority shall issue a registration certificate with a registration number in Form H to the real estate agent.
- (2) In case of rejection of the application as per section 9 the authority shall inform the applicant in Form I.
- (3) The registration granted under this rule shall be valid for a period ten years.
- 11(1) The registration granted under section 9, may be renewed as per section 6, on an application made by the real estate agent in Form J which shall not be less than three months prior to the expiry of the registration granted.
- (2) The application for renewal of registration shall be accompanied with a demand draft drawn on any scheduled bank, for a sum of rupees five thousand in case of the real estate agent being an individual or rupees fifty thousand in case of the real estate agent being anyone other than an individual.
- (3) The real estate agent shall also submit all the updated documents set out in clauses to (f) of rule 10 at the time of application for renewal.
- (4) In case of renewal of registration, the regulatory authority shall inform the real estate agent about the same in Form K and in case of rejection of the application for renewal of registration the regulatory authority, shall inform the real estate agent in Form I.
- Provided that no application for renewal of registration shall be rejected unless the applicant has been given an opportunity of being heard in the matter.
- (5) The renewal of registration of the real estate agent shall be granted provided that the real estate agent remains in compliance with the provisions of the Act and the rules and regulations made thereunder.
- (6) The renewal granted under this rule shall be valid for a period five years.
- 12- The authority may, due to reasons specified under sub-section (7) of section 9, revoke the registration granted to the real estate agent or renewal thereof, as the case may be, and intimate the real estate agent of such revocation as per Form I.
- 13- The real estate agent shall provide assistance to enable the allottee and promoter to exercise their respective rights and fulfil their respective obligations at the time of booking and sale of any plot, apartment or building, as the case may be.

Revocation of Registration of real estate agent-
Other functions of a real estate agent-

Grant of Registration to the real estate agent-
Renewal of registration of real estate agent-

- (ii) Track record of the promoter:
 (A) number of years of experience of the promoter or parent entity in real estate construction in Uttar Pradesh;
 (B) number of years of experience of the promoter or parent entity in real estate construction in other states or union territories;
 (C) number of completed projects and area constructed till date;
 (D) number of ongoing projects and proposed area to be constructed;
 (E) details and profile of ongoing and completed projects for the last 5 years as provided under clause (b) of sub-section (2) of section 4.
 (iii) Litigations: Details of past or ongoing litigations in relation to the real estate project.
 (iv) Website:
 (A) web link to the developer or group website;
 (B) web link to the project website.
 (b) Details of the real estate project including the following:
 (i) Compliance and registration:
 (A) authenticated copy of the approvals and commencement certificate from the competent authority as provided under clause (c) of sub-section (2) of section 4;
 (B) the sanctioned plan, layout plan and specifications of the project or the phase thereof, and the whole project as sanctioned by the competent authority as provided under clause (d) of sub-section (2) of section 4;
 (C) details of the registration granted by the Authority.
 (ii) Apartment and garage related details:
 (A) Details of the number, type and carpet area of apartments for sale in the project as provided under clause (h) of sub-section (2) of section 4;
 (B) Details of the number and areas of garages/covered parking for sale in the project as provided under clause (i) of sub-section (2) of section 4;
 (C) Details of the number of open parking areas available in the real estate project.
 (iii) Registered Agents: Names and addresses of real estate agents if any as provided under clause (j) of sub-section-2 of section-4.
 (iv) Consultants Details: including name and addresses, of contractors, architects and structural engineers and other persons concerned with the development of the real estate project as provided under clause (k) of sub-section (2) of section-4 such as;
 (A) Name and address of the firm
 (B) Names of promoters
 (C) Year of establishment
 (D) Names and profile of key projects completed
 (V) Location: the location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the latitude and longitude of the end points of the project as provided under clause (f) of subsection (2) of section 4.
 (vi) Development Plan:
 (A) The plan of development works to be executed in the proposed project and the proposed facilities to be provided thereof including fire-fighting facilities, drinking water facilities, emergency evacuation services, use of renewable energy etc. as provided under clause (e) of sub-section (2) of section 4;
 (B) Amenities: a detailed note explaining the salient features of the proposed project including access to the project, design for electric supply including street lighting, water supply arrangements and site for disposal and treatment of storm and sullage water, any other facilities and amenities or public health services proposed to be provided in the project;
 (C) Gantt Charts and Project schedule: the plan of development works to be executed in the project and the details of the proposed facilities to be provided thereof.
 (c) Financials of the promoter:

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- (i) authenticated copy of the PAN card of the promoter
- (ii) audited balance sheet of the promoter for the preceding financial year and income tax returns of the promoter for three preceding financial years and in case of a newly incorporated or registered entity annual returns of the last 3 financial years of the parent entity.
- (d) The promoter shall upload the following updates on the webpage for the project, within seven days from the expiry of each quarter:
- (i) List of number and types of apartments or plots, as the case may be booked;
- (ii) List of number of garages/covered parking booked;
- (iii) Status of the project:
- (A) Status of construction of each building with photographs;
- (B) Status of construction of each floor with photographs;
- (C) Status of construction of internal infrastructure and common areas with photographs.
- (iv) Status of approvals:
- (A) Approval received;
- (B) Approvals applied and expected date of receipt;
- (C) Approvals to be applied and date planned for application;
- (D) Modifications, amendment or revisions, if any, issued by the competent authority with regard to any license, permit or approval for the project.
- (e) Downloads:
- (v) Approvals;
- (A) No Objection Certificates
- Consent to Establish and Operate;
- Environmental Clearance;
- Fire NOC;
- Permission from Water and Sewerage department;
- Height clearance from Airport Authority of India where applicable;
- Such other approvals as may be required and obtained for the project.
- (B) Authenticated copy of the license or land use permission, building sanction plan and the commencement certificate from the competent authority obtained in accordance with the laws applicable for the project, and where the project is proposed to be developed in phases, an authenticated copy of the license or land use permission, building sanction plan and the commencement certificate for the phase proposed for implementation;
- (C) Authenticated copy of the site plan or site map showing the location of the project land along with names of revenue villages, khasra numbers and area of each parcel/lease plan of the project land, whichever is applicable;
- (D) Authenticated copy of the layout plan of the project or the phase thereof, and also the layout plan of the whole project as sanctioned by the competent authority;
- (E) Floor plans for each tower and block including clubhouse, amenities and common areas;
- (F) Any other permission, approval, or licence that may be required under applicable law;
- (G) Authenticated copy of occupancy certificate/completion certificate.
- (vi) Legal Documents:
- (A) Details including the proforma of the application form, allotment letter, agreement for sale and the conveyance deed;
- (B) Authenticated copy of the legal title deed reflecting the title of the promoter to the land on which development is proposed to be developed along with legally valid documents with authentication of such title, if such land is owned by another person;
- (C) Land Title Search Report from an advocate having experience of at least ten years in land related matters;
- (D) Details of encumbrances on the land on which development is proposed including any rights, title, interest or name of any party in or over such

- land along with details or no encumbrance certificate from an advocate having experience of at least ten years in land related matters;
- (E) where the promoter is not the owner of the land on which development is proposed details of the consent of the owner of the land along with a copy of the collaboration agreement, development agreement, joint development agreement or any other agreement, as the case may be, entered into between the promoter and such owner and copies of title and other documents reflecting the title of such owner on the land proposed to be developed;
- (F) Consent letters:
 - From banks for construction finance;
 - From banks for home loan tie-ups.
- (I) Contact details: Contact address, contact numbers and email-ids of the promoter and other officials handling the project.
- (G) Such other documents or information as may be specified by the Act or the rules and regulations made thereunder.
- (2) For the purpose of clause (c) of section 34, the regulatory authority shall maintain a database and ensure that the information specified therein shall be made available on its website in respect of each project revoked or penalized, as the case may be.
- (3) For the purpose of clause (d) of section 34, the regulatory authority shall ensure that the following information shall be made available on its website in respect of each real estate agent registered with it or whose application for registration has been rejected or revoked:
 (a) For real estate agents registered with the Authority:
 (i) registration number and the period of validity of the registration of the real estate agent with the regulatory authority;
 (ii) brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies, etc.);
 (iii) particulars of registration including the bye-laws, memorandum of association, articles of association, etc. as the case may be;
 (iv) photograph of the real estate agent if it is an individual and the photograph of the partners, directors, etc. in case of other persons;
 (v) authenticated copy of the PAN card;
 (vi) income tax returns filed under the provisions of the Income Tax Act, 1961 for three financial years preceding the application or in case the applicant was exempted from filing returns under the provisions of the Income Tax Act, 1961 for any of the three year preceding the application, a declaration to such effect;
 (vii) authenticated copy of the place of business and the contact address, contact numbers and email-ids of the real estate agent and other officials responsible.
- (b) In case of applicants whose application for registration as a real estate agent has been rejected or real estate agents whose registration has been revoked by the regulatory authority:
 (i) registration number and the period of validity of the registration of the real estate agent with the regulatory authority;
 (ii) brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies, etc.);
 (iii) photograph of the real estate agent if it is an individual and the photograph of the partners, directors etc. in case of other persons.

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- (c) Such other documents or information as may be specified by the Act or the rules and regulations made thereunder.
- (4) The Authority shall maintain a back-up, in digital form, of the contents of its website in terms of this rule, and ensure that such back-up is updated on the last day of each month.

**CHAPTER V
RATE OF INTEREST PAYABLE BY PROMOTER AND ALLOTTEE AND
TIMELINES FOR REFUND**

- 15- The Authority shall maintain a back-up, in digital form, of the contents of its website in terms of this rule, and ensure that such back-up is updated on the last day of each month.
- 16- Any refund of monies along with the applicable interest and compensation, if any, payable by the promoter in terms of the Act or the rules and regulations made thereunder, shall be payable by the promoter to the allottee within forty-five days from the date on which such refund along with applicable interest and compensation, if any, becomes due.

**Rate of interest payable by the promoter and the allottee-
Timelines for refund-**

**CHAPTER VI
REAL ESTATE REGULATORY AUTHORITY**

17-(1) Manner of selection of chairperson and members of the Authority

- (2) As and when vacancies of Chairperson or a Member in the regulatory authority exist or arise, or are likely to arise, the Government may make a reference to the Selection Committee in respect of the vacancies to be filled.
- (3) The Selection Committee may, for the purpose of selection of the Chairperson or a Member of the regulatory authority, follow such procedure as deemed fit.
- (4)-(a) A Search Committee shall be constituted to suggest a panel of names possessing the requisite qualification and experience and suitable for being considered for appointment as Chairperson or Member of the authority. The Search Committee shall consist of:
 - (i) The Principal Secretary/Secretary to the Government in Department of Personnel;
 - (ii) The Principal Secretary/Secretary to the Government in Information and Technology Department.
 - (iii) The Principal Secretary/Secretary to the Government in Administrative Department.
 - (b) The Senior most Member shall be the Chairman of the Search Committee.
 - (c) The Search Committee shall invite applications along with "to-data/Curriculum Vitae and prepare a list of eligible persons as per the provisions of section-22 of the Act for selection to the posts of Chairperson and other Members of the authority.
 - (d) The Search Committee shall scrutinize the applications received to ascertain the qualifications and professional experience of the eligible persons.
 - (e) After scrutiny of the applications the Search Committee shall forward the applications of all eligible candidates to the Selection Committee.
 - (f) The Search Committee shall complete the above process within fifteen days from the last date of the receipt of applications.
 - (5) The Selection Committee shall select three persons for each vacancy and recommend the same to the Government.

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Salary and allowances payable and other terms and conditions of service of Chairperson and Members of the regulatory authority.-

- (6) The Selection Committee shall make its recommendation to the Government within a period of fifteen days from the date of reference made under sub-rule (2).
- (7) The Government shall appoint one of the three persons recommended by the Selection Committee for the vacancy of the Chairperson or Member, as the case may be.
- (18-1) Subject to the provisions of section-26 of the Act the Chairperson of the authority shall be entitled to draw salaries, as are admissible to the Chief Secretary.

- (2) The Chairperson shall be entitled without payment of rent a well furnished official residence throughout the term of his office and for a period of one month immediately thereafter and no charge shall fall on him personally in respect of the maintenance of such residence. For this purpose, residence includes the staff quarters and other buildings appurtenant thereto and the garden thereof. Maintenance in relation to a residence includes the payment of Municipal taxes and electricity and water.
- Where, for any reason, the Chairperson does not avail himself of the use of an official residence he may be paid every month an allowance equivalent to an amount of 30% of his pay as HRA in lieu of rent-free official residence. In such case the residence of the Chairperson will be treated as official residence and all other facilities described above will be provided.
- (3) The Chairperson shall be entitled to subscribe to the General Provident Fund (Central Service). If he was a member of the IAS before taking over as the Chairperson, he shall continue to subscribe to the Provident Fund to which he was subscribing before his appointment as the Chairperson.
- (4) The Chairperson and the dependent members of his family shall be entitled to such facilities for medical treatment and for accommodation in hospitals as applicable to a member of I.A.S. from time to time. Provided that the expenses shall be reimbursed on prescription of Government doctors/hospitals or Recognized Private Practitioners/Private hospitals to the Chairperson and his dependents.
- The Chairperson shall be entitled to a chauffeur driven staff car and 200 liters fuel per month or the actual consumption of fuel whichever is less.
- (5) A monthly sumptuary allowance to the tune of Rs. 7500/- shall be admissible to the Chairperson.
- (6) The Chairperson shall be entitled to Travelling Allowance/LTC at the rate of Rs. 600/- per day for the entire period of absence on duty from head quarters, provided that daily allowance so admissible shall be regulated as follows :
- (i) Full daily allowance for each completed day, shall be reckoned from mid-night to mid-night.
- (ii) For absence from head quarters for less than twenty-four hours the daily allowance shall be at the following rates namely :-
- If the absence from head quarters does not exceed 6 hours, 30% of the full daily allowance;
 - If the absence from head quarters exceed 6 hours, but does not exceed 12 hours, 50% of the full daily allowance;
- The Chairperson shall also be entitled to LTC for self, spouse and dependent members for visiting any place in India including home town during leave thrice a year in accordance with rules applicable in this behalf to a member of the Indian Administrative Service holding the rank of Secretary to Government of India.

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- (7) Subject to the provisions of section-26, a member of the authority shall be entitled to draw salary and other facilities as are admissible to the Principal Secretary of the Government.
- (8) Every part-time member, who is not a servant of the Government, shall be paid a sitting fee for each day he attends the meetings of the regulatory authority as may be determined by the Government, from time to time and they shall not be entitled to any allowance relating to house and vehicle.
- 19- The administrative powers of the Chairperson of the regulatory authority shall include making decisions with regard to the following:
- (a) all matters pertaining to staff strength, wages and salaries structures, emoluments, prerequisites and personnel policies with approval of the Government.
- (b) all matters pertaining to creation and abolition of posts with approval of the Government.
- (c) all matters pertaining to appointments, promotions and confirmation for all posts;
- (d) acceptance of resignations by any Member, officer or employee; officiating against sanctioned posts;
- (e) authorization of tours to be undertaken by any Member, officer or employee; within and outside India and allowance to be granted for the same;
- (g) all matters in relation to reimbursement of medical claims;
- (h) all matters in relation to grant or rejection of leaves.
- (i) permission for purchase/hiring of vehicles for official use;
- (j) nominations for attending seminars, conferences and training courses in India or abroad;
- (k) permission for invitation of guests to carry out training courses;
- (l) all matters pertaining to staff welfare expenses;
- (m) sanction scrapping or write-off of capital assets which due to normal wear and tear have become unserviceable or are considered beyond economical repairs;
- (n) all matters relating to disciplinary action against any Member, officer or employee;
- (o) any other powers that may be required for the efficient functioning of the Authority and enforcement of the provisions of the Act and these rules.
- 20-(1) The conditions of service of the officers and employees of the authority and any other category of employees in the matter of pay, allowances, leave, joining time, age of superannuation and other conditions of service, shall be regulated in accordance with such rules and regulations as are, from time to time, applicable to officers and employees of the Government and drawing the corresponding scales of pay;
- (2) Consultants or experts may be engaged for such tenure and for such honorarium as may be determined by the authority.
- (3) The Government shall have power to relax the provisions of any of these rules in respect of any class or category of officers or employees or consultants and experts, as the case may be.
- 21-(1) The Government may appoint two suitable persons respectively as the Secretary who shall be not less than the rank of a Special Secretary to the Government and the Chief Accounts Officer/Finance Controller of the authority. They shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to them by the authority.

Administrative powers of the Chairperson of the regulatory authority.

Salary and allowances payable and other terms and conditions of service of the officers and other employees of the regulatory authority and experts and consultants engaged by the regulatory authority.

Functioning of the Authority-

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(2) The office of the authority shall be located at such place as may be determined by the Government by notification.

(3) The working days and office hours of the authority shall be the same as that of the Government.

(4) The official common seal and emblem of the authority shall be such as the Government may specify.

(22)-(1) In addition to the powers specified in subsection (2) of section 35 the authority shall have the following additional powers:

- (a) require the promoter, allottee or real estate agent to furnish in writing such information or explanation or produce such documents within such reasonable time, as it may deem necessary;
- (b) requisitioning, subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (Act no. 1 of 1872), any public record or document or copy of such record or document from any office.
- (2) The authority may call upon such experts or consultants from the fields of economics, commerce, accountancy, real estate, competition, construction, architecture or engineering or from any other discipline as it deems necessary, to assist the authority in the conduct of any inquiry or proceedings before it.
- (3) On receipt of the application in prescribed form and complete in all respects under section 4 read with rule 3 for registration of a project, the authority may review the documents submitted along with the application under rule 3 and enquire, inter-alia, into the following matters and such other matters, as it may consider necessary, prior to grant of registration within the time prescribed under sub-section (1) of section 5, namely:-
 - (a) the nature of rights and interest of the promoter to the land which is proposed to be developed;
 - (b) extent and location of area of land proposed to be developed;
 - (c) layout plan of the project;
 - (d) financial, technical and managerial capacity of the promoter to develop the project;
 - (e) plan regarding the development works to be executed in the project; and
 - (f) conformity of development of the project with neighboring areas.
- (4) The authority may in the interest of the allottees, enquire into the payment of amounts imposed as penalty, interest or compensation, paid or payable by the promoter, in order to ensure that the promoter has not:

- (a) withdrawn the said amounts from the account maintained as provided under sub-clause (D) of clause (1) of sub-section (2) of section 4; or
- (b) used any amounts paid to such promoter by the allottees for the that real estate project for which the penalty, interest or compensation is payable, or any other real estate project;
- (c) recovered the amounts paid as penalty, fine or compensation from the allottees of the relevant real estate project or any other real estate project.

23- Subject to the provisions of sub-section (1) of section 40, the recovery of the amounts due as arrears of land revenue shall be carried out in the manner provided in local laws.

24- For the purpose of sub-section (2) of section 40, every order passed by the adjudicating officer, regulatory authority or Appellate Tribunal, as the case may be, under the Act or the rules and regulations made thereunder, shall be enforced by the adjudicating officer, regulatory authority or the Appellate Tribunal in the same manner as if it were a decree or order made by the principal civil court in a suit pending therein and it shall be lawful for the adjudicating officer, regulatory authority or Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the principal civil court, to execute such order either within the local limits of whose

Additional powers of the Authority-

Manner of recovery of interest, penalty and compensation-
 of
 Manner of implementation of order, direction or decisions of the adjudicating officer, the Authority or the Appellate Tribunal-

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jurisdiction the real estate project is located or in the principal civil court within the local limits of whose jurisdiction the person against whom the order is being issued, actually and voluntarily resides, or carries on business, or personally works for gain.

CHAPTER VII REAL ESTATE APPELLATE TRIBUNAL

25-(1) Every appeal filed under subsection (1) of section 44 shall be accompanied by a fee of rupees one thousand in favour of the Appellate Tribunal.

(2) Every appeal shall be filed in Form L along with the following documents:

(a) An attested true copy of the order against which the appeal is filed;
 (b) Copies of the documents relied upon by the appellant and referred to in the appeal;

(c) An index of the documents.
 (3) Procedure for filing the appeal shall be as decided by the Appellate Tribunal.

26-(1) The Appellate Tribunal shall consist of a chairperson and three, whole time members.

(2) As and when vacancies of a Member in the Appellate Tribunal exist or arise, or are likely to arise, the Government may make a reference to the Selection Committee in respect of the vacancies to be filled.

(3) The Selection Committee may, for the purpose of selection of the Member of the Appellate Tribunal, follow such procedure as deemed fit including the appointment of a search committee consisting of such persons as the Selection Committee considers appropriate to suggest a panel of names possessing the requisite qualification and experience and suitable for being considered for appointment as Member of the Appellate Tribunal.

(4) The Selection Committee shall select two persons for each vacancy and recommend the same to the Government.

(5) The Selection Committee shall make its recommendation to the appropriate Government within a period of sixty days from the date of reference made under sub rule (2).

(6) The Government shall within thirty days from the date of the recommendation by the Selection Committee, appoint one of the two persons recommended by the Selection Committee for the vacancy of the Member.

27-(1) The salaries and allowances payable to the Chairperson and Members of the Appellate Tribunal shall be as follows:

(a) The Chairperson shall be paid a monthly salary equivalent to the last drawn salary by such person, as a Judge of a High Court;

(b) The whole-time Member shall be paid a monthly salary equivalent to the last drawn salary at the post held by such person, prior to his appointment as a Member of the Appellate Tribunal;

(c) Every full-time Member, who is not a servant of the Government, shall be paid a monthly salary and allowance equivalent to the Principal Secretary to the Government;

Form for filing Appeal and the fees payable-

Manner of selection of members of the Appellate Tribunal-

Salary and allowances payable and other terms and conditions of service of Chairperson and Members of the Appellate Tribunal-

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Every part-time Member, who is not a servant of the Government, shall be paid a sitting fee for each day he attends the meetings of the Appellate Tribunal as may be determined by the Government, from time to time.

(2) The Chairperson and every other Member shall be entitled to thirty days of earned leave for every year of service.

(3) The other allowances and conditions of service of the Chairperson and the whole time Member shall be as per notification issued by the Government from time to time.

28-(1) In the event of the Government becoming aware of occurrence of any of the circumstances specified in clause (d) or clause (e) of sub-section (1) of section 26 in case of a Chairperson or Member of the regulatory authority or as specified under sub-section (1) of section 49 in case of a Chairperson or Member of the Appellate Tribunal, by receipt of a complaint in this regard or *suomotu*, as the case may be, the Government shall make a preliminary scrutiny with respect to such charges against the Chairperson or any Member of the regulatory authority or Appellate Tribunal, as the case may be.

(2) If, on preliminary scrutiny, the Government considers it necessary to investigate into the allegation, it shall place the complaint, if any, together with supporting material as may be available, before a Judge nominated by the High Court.

(3) The Government shall forward to the Judge, copies of; (a) the statement of charges against the Chairperson or Member of the regulatory authority or Appellate Tribunal, as the case may be; and (b) material documents relevant to the inquiry.

(4) The Chairperson or Member of the Authority or Appellate Tribunal, as the case may be, shall be given a reasonable opportunity of being heard with respect to the charges within the time period as may be specified in this behalf by the Judge.

(5) Where it is alleged that the Chairperson or Member Appellate Tribunal is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the Judge may arrange for the medical examination of the Chairperson or Member of the Appellate Tribunal.

(6) After the conclusion of the investigation, the Judge shall submit his report to the Government stating therein his findings and the reasons thereof on each of the articles of charges separately with such observations on the whole case as he thinks fit.

(7) Thereafter, the Government shall in consultation with the Chief Justice of the High Court decide to either remove or not to remove the Chairperson or Member of the regulatory authority or Appellate Tribunal, as the case may be.

29-(1) The conditions of service of the officers and employees of the Authority and any other category of employees in the matter of pay, allowances, leave, joining time, joining time pay, age of superannuation and other conditions of service, shall be regulated in accordance with such rules and regulations as are, from time to time, applicable to officers and employees of the Government and drawing the corresponding scales of pay;

(2) The Government shall have power to relax the provisions of any of these rules in respect of any class or category of officers or employees or consultants and experts, as the case may be.

30- The Appellate Tribunal may call upon such experts or consultants from the fields of economics, commerce, accountancy, real estate, competition, construction, architecture or engineering or from any other discipline as it deems necessary, to assist the Appellate Tribunal in the conduct of any inquiry or proceedings before it.

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Additional powers of the Appellate Tribunal.-

Salary and allowances payable and other terms and conditions of service of the officers and other employees of the Appellate Tribunal.-

Procedure for inquiry of the Chairperson or Member of the Authority or the Appellate Tribunal.-

31- The administrative powers of the Chairperson of the Appellate Tribunal shall include making decisions with regard to the following:

- (a) all matters pertaining to staff strength, wages and salaries structures, emoluments, perquisites and personnel policies with consent of the Government;
- (b) all matters pertaining to creation and abolition of posts with consent of the Government;
- (c) all matter pertaining to appointments, promotions and confirmation for all posts;
- (d) acceptance of resignations by any Member, officer or employee;
- (e) officiating against sanctioned posts;
- (f) authorization of tours to be undertaken by any Member, officer or employee; within and outside India and allowance to be granted for the same;
- (g) all matters in relation to reimbursement of medical claims;
- (h) all matters in relation to grant or rejection of leaves;
- (i) permission for hiring of vehicles for official use;
- (j) nominations for attending seminars, conferences and training courses in India or abroad;
- (k) permission for invitation of guests to carry out training course;
- (l) all matters pertaining to staff welfare expenses;
- (m) sanction scrapping or write-off of capital assets which due to normal wear and tear have become unserviceable or are considered beyond economical repairs;
- (n) all matters relating to disciplinary action against any Member, officer or employee;
- (o) any other powers that may be required for the efficient functioning of the Appellate Tribunal and enforcement of the provisions of the Act and these Rules.

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**CHAPTER VIII
OFFENCES AND PENALTIES**

The court shall, for the purposes of compounding any offence specified under section 70, accept a sum of money as specified in the Table below:

Offence	Money to be paid for compounding the offence
Imprisonment under sub section (2) of section 59	The money to be paid for compounding shall be proportionate to the term of imprisonment subject to maximum of 10 percent of the estimated cost of the real estate project for three years.
Imprisonment under section 64	The money to be paid for compounding shall be proportionate to the term of imprisonment subject to maximum of 10 percent of the estimated cost of the real estate project for three years.
Imprisonment under section 66	The money to be paid for compounding shall be proportionate to the term of imprisonment subject to maximum of 10 percent of the estimated cost for one year of plot, apartment or building as the case may be, of the real estate project, for which the sale or purchase has been facilitated.
Imprisonment under section 68	The money to be paid for compounding shall be proportionate to the term of imprisonment subject to maximum of 10 percent of the estimated cost for one year of the plot, apartment, or building as the case may be.

Provided that the Government may, by notification in the official gazette, amend the rates specified in the table above.

(2) On payment of the sum of money in accordance with the table above, any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such person in any court.

(3) The acceptance of the sum of money for compounding an offence in accordance with the table above, by the Court shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.

(4) The promoter, allottee or real estate agent, as the case may be, shall comply with the orders of the regulatory authority or the Appellate Tribunal, within the period specified by the court, which shall not be more than 30 days from the date of compounding of the offence.

Manner of filing a complaint with the regulatory authority and the manner of holding an inquiry by the regulatory authority-

33-(1)

Any aggrieved person may file a complaint with the regulatory authority for any violation under the Act or the rules and regulations made thereunder, save as those provided to be adjudicated by the adjudicating officer, in Form M which shall be accompanied by a fee of rupees one thousand in the form of a demand draft drawn on a nationalized bank in favour of regulatory authority and payable at the main branch of that bank at the station where the seat of the regulatory authority is situated.

Explanation:-For the purpose of this sub-rule "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The regulatory authority shall for the purposes of deciding any complaint as specified under sub-rule (1), follow summary procedure for inquiry in the following manner:

(a) Upon receipt of the complaint the regulatory authority shall issue a notice along with particulars of the alleged contravention and the relevant documents to the respondent;

(b) The notice shall specify a date and time for further hearing;

(c) On the date so fixed, the regulatory authority shall explain to the respondent about the contravention alleged to have been committed in relation to any of the provisions of the Act or the rules and regulations made thereunder and if the respondent:

(i) pleads guilty, the regulatory authority shall record the plea, and pass such orders including imposition of penalty as it thinks fit in accordance with the provisions of the Act or the rules and regulations, made thereunder;

(ii) does not plead guilty and contests the complaint the regulatory authority shall demand an explanation from the respondent;

(d) In case the regulatory authority is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint;

(e) In case the regulatory authority is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by it;

(f) The regulatory authority shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions;

(g) On the date so fixed, the regulatory authority upon consideration of the evidence produced before it and other records and submissions is satisfied that -

(i) the respondent is in contravention of the provisions of the Act or the rules and regulations made thereunder it shall pass such orders including imposition of penalty as it thinks fit in accordance with the provisions of the Act or the rules and regulations made thereunder;

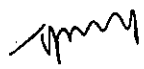
(ii) the respondent is not in contravention of the provisions of the Act or the rules and regulations made thereunder the regulatory authority may, by order in writing, dismiss the complaint, with reasons to be recorded in writing.

(h) If any person fails, neglects or refuses to appear, or present himself as required before the regulatory authority, the regulatory authority shall have the power to proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.

34-(1) Any aggrieved person may file a complaint with the adjudicating officer for compensation under section 12, 14, 18 and 19 in Form N which shall be accompanied by a fee of rupees one thousand in the form of a demand draft drawn on a nationalized bank in favour of regulatory authority and payable at the main branch of that bank at the station where the seat of the said regulatory authority is situated.

Manner of filing a complaint with the adjudicating officer and the manner of holding an inquiry by the adjudicating officer-

34-(1)



Wm

Report and Returns-

Budget, accounts and audit-

- 35- The regulatory authority shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts as provided in section 77 in Form O.
- 36- The regulatory authority shall prepare its annual report as provided in section 78 in Form P.

**CHAPTER IX
BUDGET AND REPORT**

- (2) The adjudicating officer shall for the purposes of adjudging compensation follow summary procedure for inquiry in the following manner:
 - (i) Upon receipt of the complaint the adjudicating officer shall issue a notice along with particulars of the alleged contravention and the relevant documents to the promoter;
 - (j) The notice shall specify a date and time for further hearing;
 - (k) On the date so fixed, the adjudicating officer shall explain to the promoter about the contravention alleged to have been committed in relation to any of the provisions of the Act or the rules and regulations made thereunder and if the promoter:
 - (ii) pleads guilty, the adjudicating officer shall record the plea, and award such compensation as he thinks fit in accordance with the provisions of the Act or the rules and regulations, made thereunder;
 - (iii) does not plead guilty and contests the complaint the adjudicating officer shall demand an explanation from the promoter;
 - (l) In case the adjudicating officer is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint;
 - (m) In case the adjudicating officer is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by him;
 - (n) The adjudicating officer shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions;
 - (o) On the date so fixed, the adjudicating officer upon consideration of the evidence produced before him and other records and submissions is satisfied that the promoter is-
 - (iii) liable to pay compensation, the adjudicating officer may, by order in writing, order payment of such compensation, as deemed fit by the promoter to the complainant; or
 - (iv) not liable to any compensation, the adjudicating officer may, by order in writing, dismiss the complaint, with reasons to be recorded in writing.
 - (p) If any person fails, neglects or refuses to appear, or present himself as required before the adjudicating officer, the adjudicating officer shall have the power to proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.

FORM A
[See rule 3(2)]

APPLICATION FOR REGISTRATION OF PROJECT

To

The Real Estate Regulatory Authority

Sir,

I/We hereby apply for the grant of registration of my/our project to be set up at Tehsil District _____ State _____

1. The requisite particulars are as under:-

(i) Status of the applicant, whether individual / company / proprietorship firm / societies / partnership firm / competent authority;

(ii) In case of individual -

- (a) Name
- (b) Father's Name
- (c) Occupation
- (d) Permanent address
- (e) Photograph

OR

- (a) Name
- (b) Address
- (c) Copy of registration certificate
- (d) Main objects
- (e) Name, photograph and address of chairman of the governing body / partners / directors etc.

(iii) PAN No. _____;

(iv) Name and address of the bank or banker with which account in terms of section 4

(1) (D) of the Act will be maintained ;

(v) Details of project land held by the applicant _____ ;

(vi) brief details of the projects launched by the promoter in the last five years, whether

already completed or being developed, as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending, details of type of land and payments pending etc.

(vii) Agency to take up external development works _____ Local Authority / Self Development;

(viii) Registration fee by way of a demand draft dated _____ for an amount of _____ drawn on

Rs. /- calculated as per sub-rule (3) of rule 3;

(ix) Any other information the applicant may like to furnish. I/we enclose the following documents in triplicate, namely:-

- (I) authenticated copy of the PAN card of the promoter;
- (II) audited balance sheet of the promoter for the preceding financial year and income tax returns of the promoter for three preceding financial years;
- (III) copy of the legal title deed reflecting the title of the promoter to the land on which development is proposed to be developed along with legally valid documents with authentication of such title, if such land is owned by another person;
- (IV) the details of encumbrances on the land on which development is proposed including any rights, title, interest or name of any party in or over such land along with details;
- (V) where the promoter is not the owner of the land on which development is proposed details of the consent of the owner of the land along with a copy of the collaboration agreement, development agreement, joint development agreement or any other agreement, as the case may be, entered into between the promoter and such owner and copies of title and other documents reflecting the title of such owner on the land proposed to be developed;
- (VI) an authenticated copy of the approvals and commencement certificate from the competent authority obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases;
- (VII) the sanctioned plan, layout plan and specifications of the proposed project or the phase thereof, and the whole project as sanctioned by the competent authority;
- (VIII) the plan of development works to be executed in the proposed project and the proposed facilities to be provided thereof including fire-fighting facilities, drinking water facilities, emergency evacuation services, use of renewable energy;
- (IX) the location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the latitude and longitude of the end points of the project;
- (X) proforma of the allotment letter, agreement for sale, and the conveyance deed proposed to be signed with the allottees;
- (XI) the number, type and the carpet area of apartments for sale in the project along with the area of the exclusive balcony or verandah areas and the exclusive open terrace areas apartment with the apartment, if any;
- (XII) the number and areas of garage for sale in the project;
- (XIII) the number of open parking areas available in the real estate project;
- (XIV) the names and addresses of his real estate agents, if any, for the proposed project;
- (XV) the names and addresses of the contractors, architect, structural engineer, if any and other persons concerned with the development of the proposed project;
- (XVI) a declaration in FORM 'B'.

2.

I/We solemnly affirm and declare that the particulars given in herein are correct to my/our knowledge and belief.

Dated: _____
Place: _____

Yours faithfully,
Signature and seal of the applicant(s)

DECLARATION, SUPPORTED BY AN AFFIDAVIT, WHICH SHALL BE SIGNED BY THE PROMOTER OR ANY PERSON AUTHORIZED BY THE PROMOTER

FORM B
[See rule 3(4)]

Affidavit cum Declaration

Affidavit cum Declaration of Mr./Mrs. _____ promoter of the proposed project/ duly authorized by the promoter of the proposed project, vide its/his/their authorization dated _____
I, promoter of the proposed project / duly authorized by the promoter of the proposed project do hereby solemnly declare, undertake and state as under:

1. That I / promoter have / has a legal title to the land on which the development of the project is proposed
OR
_____ have/has a legal title to the land on which the development of the proposed project is to be carried out
AND

2. That the said land is free from all encumbrances.
OR
That details of encumbrances _____ including details of any rights, title, interest or name of any party in or over such land, along with details.

3. That the time period within which the project shall be completed by me/promoter is _____
4. That seventy per cent of the amounts realised by me/promoter for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose.
5. That the amounts from the separate account, to cover the cost of the project, shall be withdrawn in proportion to the percentage of completion of the project.
6. That the amounts from the separate account shall be withdrawn after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project.

7. That I / promoter shall get the accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.