

# THE CONTEMPORARY CODE

# August 2021

Amendments in Real Estate Regulatory Authority (RERA) Rules – Maharashtra, Gujarat and West Bengal from the period 1st April 2020 to 31st August 2021

JHS & Associates LLP Mumbai Office 22-09-2021

## **Foreword**



Dear Reader,

Contemporary Code is a knowledge bulletin prepared by the young stars of team JHS. Each month this knowledge bulletin focuses on recent amendments in Corporate Laws. This month's theme is recent amendments to the RERA laws.

Real Estate (Regulation and Development) Act, 2016 popularly called RERA laws, that has established a Real Estate Regulatory Authority in each state for regulation and promotion of the real estate sector. States have been providing clarifications from time to time on the Rules by issuing various circulars and orders. This edition throws light on Amendments in Real Estate Regulatory Authority (RERA) Rules in states of Maharashtra, Gujarat and West Bengal. West Bengal was the only state in the country that had not accepted RERA and had implemented its own act titled West Bengal Housing & Industrial Regulation Act 2017 (WBHIRA). The West Bengal government has notified rules governing the real estate regulatory authority (RERA) in the state on 27th July 2021.

Our young team members have analysed the recent amendments in RERA rules in the three states of Maharashtra, Gujarat and West Bengal in the last 12 months. Each amendment is analysed for your benefit in a crisp manner along with implications.

Happy reading and best wishes for safety.

Huzeifa Unwala Sr. Partner

# **Download our other Contemporary Code publications:**



Recent Amendments in Companies Act, 2013



Recent Amendments in Income Tax Act, 1961



Recent Amendments in FEMA Act 1999 and FDI Policy 2020

# **INDEX**

Sr. No.	PARTICULARS	Date of Order	Pg No.	
	Maharashtra RERA			
1	Extension of project registration by 6 months	06 <sup>th</sup> August, 2021	05	
2	Order regarding "Garage", "covered parking space" and "open parking areas"	30 <sup>th</sup> July, 2021	05	
3	Report from CERSAI	28 <sup>th</sup> July, 2021	06	
4	Quarterly Update for Registered Projects	28 <sup>th</sup> July, 2021	06	
5	Procedure for transferring or assigning promoter's rights and liabilities to a third party	23 <sup>rd</sup> July, 2021	07	
6	Clarification regarding Formats for consent of allottees	23 <sup>rd</sup> July, 2021	07	
7	Documentation for real estate agent registration and renewal of such registration	06 <sup>th</sup> July, 2021	08	
8	Hearing of Complaints as per Seniority	21st June, 2021	08	
9	Declaration about Commencement Certificate	07 <sup>th</sup> June, 2021	09	
10	Guidelines for functioning of MahaRERA Conciliation and Dispute Resolution Forum	18 <sup>th</sup> May, 2021	09	
11	Standardized formats for Legal title report and consent of flat buyers	09 <sup>th</sup> March, 2021	09	
12	Order on delegation of powers to the MahaRERA Secretary	24 <sup>th</sup> November, 2020	10	
13	Standard Operating Procedure for online hearings through video conferencing	12 <sup>th</sup> June, 2021	10	
	Gujarat RERA			
14	Procedure for transferring or assigning promoters rights and liabilities to a third-party u/s 15 of RERA Act, 2016	20 <sup>th</sup> July, 2021	11	

# **INDEX**

Sr. No.	PARTICULARS	Chapter No	Pg No.	
	West Bengal RERA Rules, 2021			
1	Real Estate project	Chapter II	11	
2	Registration and Compliance norms for a Real Estate Agent	Chapter III	12	
3	Details to be published on the website of the Authority	Chapter IV	13	
4	Rate of interest payable by promoter and allottee and timelines for refund	Chapter V	14	
5	The Appointment of Chairperson as per RERA	Chapter VI	14	
6	Central Advisory Council	Chapter VII	14	
7	Real Estate Appellate Tribunal	Chapter VIII	15	
8	Offences and Penalties	Chapter IX	15	

# **RERA Orders**

# Maharashtra RERA (MahaRERA)

#### 1. Extension of project registration by 6 months

Date of Order: 06th August, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations 2017

**Details:** In order to aid government efforts in controlling the damage caused due to COVID-19 and ensure that completion of MahaRERA registered projects does not get adversely affected, the authorities have declared a force majeure period of six months, from 15<sup>th</sup> April to 14<sup>th</sup> October, 2021. This extension shall be applicable to all projects whose completion date, revised completion date or extended completion date expires on or after 15<sup>th</sup> April, 2021.

**Implication:** All time limits for compliances which become due after 15<sup>th</sup> April, 2021, shall stand extended. However, this extension shall not affect the rights of the allottees under the RERA Act, 2016.

Weblink: https://maharera.mahaonline.gov.in/Site/Upload/PDF/Order%20no%2021.pdf

#### 2. Order regarding "Garage", "covered parking space" and "open parking areas"

Date of Order: 30th July, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations 2017

**Details:** The following matters have been clarified:

- i. Open Parking spaces are provided free of FSI (Floor Space Index).
- ii. Promoters are not entitled to sell / allot open parking areas for monetary consideration.
- iii. Open parking areas, garage and covered Parking space should be specifically marked and numbered at the real estate project site and tagged to the apartment to which it is allotted.
- iv. Where garage is sold monetary consideration, the type, numbers and size as well as the place of the garage should be mentioned in the Agreement for Sale and the plan showing the exact location.

**Implication:** The authorities observed that promoters sell/allot open parking area for monetary consideration and there have been disputes on the exact location of the parking space vis a vis the apartment, in response of which the above decisions have been taken.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/circular%2036.pdf

#### 3. Report from CERSAI

Date of Order: 28th July, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations 2017

**Details:** The promoters of Real estate projects should ensure the following matters:

- During Project Registration, promoter shall submit Report from CERSAI on security interests created in the Real Estate Project along with the encumbrance certificate. Incase no security interest has been created then the promoter shall provide an undertaking confirming the same.
- In each Quarterly Update, promoter shall submit updated CERSAI Reports on Security Interests created on Real Estate Project by the Promoter or any of the allottees on the apartments in the project.
- The CERSAI reports submitted should be generated within 10 days from the date of submission.

**Implication:** This move enables homebuyers / allottees to be aware of security interests created on real estate projects / apartments, which they are interested in purchasing.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/order%20no%2019%20Report%20from%20CERSAI.pdf

#### 4. Quarterly Update for Registered Projects

Date of Order: 28th July, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations 2017

**Details:** MahaRERA is initiating "Financial Quarter Based Project Progress Reporting System" for all registered real estate projects. Promoters shall file Quarterly Progress Reports (QPR) as per Financial Quarters within 7 days of the Quarter End.

Promoters are expected to provide Quarterly updates on the following:

- a. Increment Changes in various building plan approvals.
- b. Present status of Booking of Plots/Apartments/Units
- c. Present status of Booking of Garages, Cover Parking.
- d. Changes in Project Professionals including Architect, Engineer, Chattered Accountant, Real Estate Agents and so on.
- e. Changes in Encumbrances Report, etc.

**Implication:** On missing the deadlines, a web generated notice shall be immediately sent to the promoter for compliance within 10 days. Authorities will ensure that stringent action will be taken against promoters for not filing the Quarterly Progress Reports.

**Weblink:** https://tinyurl.com/vmmat5ay

#### 5. Procedure for transferring or assigning promoter's rights and liabilities to a third party

Date of Order: 23rd July, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations 2017

**Clarification:** The promoter shall have to apply to MahaRERA with the consent of two-third allottees as on the date of application to seek permission to transfer its rights and liabilities to a third party. The third Party should submit the documents, declaration and shall have to write to the Secretary MahaRERA in format prescribed in the circular.

On receipt of such application, Secretary would take necessary steps to obtain approval of MahaRERA which may include scheduling a hearing and MahaRERA shall thereafter pass an order within one month of filing of such application for either granting approval or rejection of such application for transfer.

**Implication:** Authorities had observed that various types of litigations were put up and it was necessary to prescribe revised procedure for the purpose of transfer of promoter's rights and liabilities to third party in accordance with the provisions of section 15 of Real Estate (Regulation and Development) Act, 2016.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/Clarification%20to%20Circular%20no%2024.pdf

#### **6. Clarification regarding Formats for consent of allottees**

Date of Order: 23rd July, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations 2017

**Clarification:** The following clarifications are made with respect to format for application under Section 7(3) for obtaining consents of at least 51 % of allottees and section 14(2) for consent of at least two thirds of allottees:

- a. If the table providing allottee details and signatures does not fit in single page due to large number of allottees, then the table can be spread across multiple pages. In such case, every page should contain the MahaRERA Project Registration number, resolution to which allottees are agreeing to and cumulative table.
- b. Approval of allottees can also be received over email/individual Letter. In such case, the copy of email / Individual Letter should be annexed with the application.

**Implication:** Few doubts were raised by the promoters regarding these formats and therefore, the authorities felt it necessary to issue the above clarification.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/Circular%2028A.pdf

#### 7. Documentation for real estate agent registration and renewal of such registration

Date of Order: 06th July, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations 2017

**Order:** In addition to the existing requirement under Rule 11(2) (e) and (g) for application for registration and renewal of the registration, the below mentioned information is required to be furnished:

- A. Authenticated copy of any one of the following documents such as Electricity Bill, Telephone Bill, Agreement, Lease Deed, Tenancy Agreement and Leave & License Agreement to establish the proof of address of his/ their principal place of business.
- B. A self-attested declaration declaring that There are no criminal proceedings filed against the applicant and that the applicant has not been convicted by any Court in India.

**Implication:** It was noticed that many a times, real estate agents while making an application for registration or for renewal of the registration, do not give the particulars and the required documents as per the mandate. Therefore, authorities have made it compulsory to submit the above mentioned information mandatorily.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/Circular%20no%2035.pdf

#### 8. Hearing of Complaints as per Seniority

Date of Order: 21st June, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017

**Order:** All complaints filed with MahaRERA shall be heard and decided on merits by the respective single benches of MahaRERA or the Adjudicating office as the case may be as per the seniority of the complaint which shall be decided as per the date of filing / registration of the complaint before MahaRERA subject to certain exceptions such as:

- 1. Where the complainant is suffering with serious life-threatening illness and an application in that regard is submitted along with Doctor's certificate.
- 2. Where a superior Forum / Tribunal / Court directs that the complaint is to be disposed of in a fixed time.
- 3. Where disputes have been settled between the parties before the Conciliation Bench'

**Implication:** All the complaints filed u/s 31 of the Act are to be heard and disposed of on merits in accordance with and as per their seniority in the interest of justice, equity and good conscience.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/Circular%20No%2034.pdf

#### 9. Declaration about Commencement Certificate

Date of Order: 07th June, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017

**Order:** This Declaration format will be called as a "Format -D" of this circular and the Promoter will be required to upload it while registering the project, alongside the Commencement certificate. The promoter will be required to update it as soon as further Commencement certificate / Approvals are obtained by him, at every later stage.

**Implication:** It had been observed that the Flat Buyers are unaware of stage wise approvals, therefore, it has been decided to prescribe a declaration by the Promoter to certify the exact stage of the Commencement certificate, so that Flat Buyers will be aware of the same.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/Circular%2032.pdf

#### 10. Guidelines for functioning of MahaRERA Conciliation and Dispute Resolution Forum

Date of Order: 18th May, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017

**Order:** A procedure is prescribed for hearing to be conducted by the MahaRERA Conciliation and Disputes Resolution Forum in reference to conciliation matters (online complaints) transferred by MahaRERA. The procedure in brief is as follows:

- 1. The office bearers of the Conciliation Forum should first scrutinize the seniority of the said complaints and thereafter keeping its seniority intact.
- Conciliation bench shall issue notice of first hearing to the parties within a period of one week from the date of receipt of such assignment and the first hearing on such complaints should be conducted at least within 15 days.
- If the parties arrive at any mutual agreement, in that event, the concerned Bench should record the said proceeding in the Roznama and should refer such complaints to MahaRERA within a period of one week together duly with signed conciliation terms.

**Implication:** In order to streamline the process of hearing /disposal of the complaints referred to MahaRE-RA Conciliation and Disputes Resolution Forum the above mentioned procedure has been prescribed.

#### 11. Standardized formats for Legal title report and consent of flat buyers

Date of Order: 9th March, 2021

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017

**Details:** A format for authentication has been provided- Legal Title Report (Format A). Further, if title/Commencement Certificate is not in the name of the promoter's, then Promoter has to add details of promoter, land Owner (Investor), details of all land owners, Form B, MOU/DA Area/Revenue share, etc.

A format (Format B) has been provided for making application under Section 7(3) by obtaining consents of at least 51 % of allottees, and the applicant should be uploaded in the extension application. Section 14(2) mandates undertaking written consent of at least two-thirds of the allottees for major

alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common area, and the applicant should upload this in format "C" in the correction / change application.

**Implication:** Standardized format for legal title report(Format A), Format B is provided for extension of completion date of project and Format C is used to obtained consent from allottees for any changes.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/Circular%2028%20of%202021.pdf

#### 12. Order on delegation of powers to the MahaRERA Secretary

Date of Order: 24th November, 2020

**Order with respect to:** Section 40 of the Real Estate Act, 2016

**Details:** In exercise of the powers under section 81 of the RERA Act, 2016 MahaRERA has resolved, to delegate its powers under section 40(1) so that the Secretary, MahaRERA can additionally deal with non-compliance applications under section 40 (1), in accordance with law.

**Implication:** Secretary, MahaRERA can additionally deal with non-compliance applications so that quality time can be devoted for final disposal of a large number of pending complaints.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/MahaRERA%20Order%20No%2015%202020-2.pdf

#### 13. Standard Operating Procedure for online hearings through video conferencing

Date of Order: 12th June, 2020

Order with respect to: Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017

**Details:** MahaRERA has initiated the procedure for online hearings through video conferencing, of urgent matters. MahaRERA has been working to further enhance its complaint management; IT application can be done online, from home, without any need to visit MahaRERA Office. MahaRERA, shall, henceforth, use online mode to re-start regular hearing of cases through video conferencing. MahaRERA will thus be 100% digital with zero paper & zero footfalls.

**Implication:** MahaRERA Services and Operations can be delivered digitally, without any need for physical visit. Online Complaint application helps to reduce paper work and also help to undertake safety in Covid-19.

Weblink: https://maharera.mahaonline.gov.in/Upload/PDF/Circular%20No%2027.pdf

# **Gujarat RERA**

14. Procedure for transferring or assigning promoters rights and liabilities to a third-party u/s 15 of RERA Act, 2016

Date of Order: 20th July, 2021

Order with respect to: Section 15 of RERA Act, 2016

**Details:** Process under Section 15 is as follows:

**a. Reporting of Change in Promoter Entity Status /Management changes:** Changes in the legal status of the promoter entity, shall be reported to GujaratRERA through promoter's log-in on GujRERA Portal.

b. Transfer or assignment of majority rights and liabilities in respect of the real estate project to a third party:

**Stage 1:** The promoter shall have to apply to GujaratRERA with the consent of two-third allottee along with the Form-3 CA certificate. After this Transferor promoter (P1) shall freeze all financial transactions as the same will have to be transferred to Transferee promoter (P2). GujaratRERA shall thereafter pass an order, preferably within 30 Days of filing of such application.

**Stage 2:** After approval within 10 days, **(P1)** shall submit compliance report of effecting the fund transfer from his RERA A/C to **(P2)** RERA A/C and **(P2)** shall make an online application on portal for necessary alterations in existing registrations details. After evaluation of applications, GujaratRERA shall pass an order, preferably within 10 working days and will issue digitally signed project alteration registration certificate to **(P2)**.

**Implication:** Standardized Procedure for transferring promoter's rights and liabilities to 3<sup>rd</sup> party has been defined by the GujaratRERA authorities to avoid any further confusion.

# **West Bengal RERA Rules, 2021**

West Bengal was the only state in the country that had not accepted RERA. The Central RERA Act came into effect on May 1, 2017, exactly a year after it was passed by the Parliament. West Bengal had implemented its own act titled West Bengal Housing & Industrial Regulation Act 2017 (WBHIRA). However, West Bengal has recently framed and passed the West Bengal Real Estate (Regulation and Development) Rules, 2021. Some of the key aspects from these regulations are as follows:

#### 1. Chapter II: Real Estate project

- The promoter shall furnish information and documents for registration of the real estate project such as copy of PAN card, GST registration, audited balance sheet, income tax returns, number of open parking areas available in the said real estate project, copy of legal title to the land, details of encumbrances on the land and such other documents as may be specified.
- The promoter shall pay a registration fee at the time of application for registration at the rate of:-

Project	Rate per square meter	Area of land proposed to be developed
Residential projects	Rs.10	<= 1000 sq. meters
	Rs.20	>1000 sq. meters
Commercial or any other projects	Rs.50	<= 1000 sq. meters
	Rs.100	>1000 sq. meters

- The promoters of all ongoing projects which have not received completion certificate shall make an application to the Regulatory Authority where the promoter shall disclose all project details.
- The amount deposited in separate account in a Scheduled Bank should cover cost of construction and land cost.

Sr.No	Action by Regulatory Authority	Form Prescribed
1	Registration certificate with a registration number issued upon registration of a project	Form C
2	Rejection of the application of registration of a project Form D	
3	Revocation of registration of a project	

The registration granted may be extended on an application made by the promoter in Form 'E' along with
fees of an amount equivalent to twice the Registration fee as prescribed which shall not be less than
three months prior to the expiry of the registration granted.

**Implication:** Standard procedure of registration of real estate projects have been laid down where prescribed fees and forms are clarified.

#### 2. Chapter III: Registration and Compliance norms for a Real Estate Agent

#### Application:

- Every real estate agent who is required to get registered under this act, shall make an application in writing to the Regulatory Authority as per Form 'G' along with the prescribed documents.
- The real estate agent is required to pay a registration fee at the time of application for registration of
  rupees twenty-five thousand in case of the applicant being an individual and rupees two lakh fifty
  thousand in case the applicant is anyone other than an individual payable either by way of a demand
  draft drawn on any scheduled bank or by electronic fund transfer system.

#### Registration:

- The Regulatory Authority will issue a registration certificate with a registration number as per Form 'H'
  to the real estate agent. The registration certificate remains valid for a period of 5 years.
- In case where the application is rejected for registration the Regulatory Authority shall inform the applicant as per Form 'I'.

#### Renewal of registration

- The registration can be renewed 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 along with prescribed fee
  and updated documents.
- The Regulatory Authority shall inform the real estate agent about the renewal as per Form 'K' and in case
  of rejection of the application the same should be informed as per Form 'I'. However, before rejection
  the Authority shall give the agent a reasonable opportunity of hearing and rectification of defects.

#### Maintenance and preservation of books of accounts, records and documents:

The real estate agent shall maintain and preserve books of account, records and documents in accordance with the provisions of the Income Tax Act, 1961.

#### Functions of a real estate agent

 The real estate agent shall provide assistance to enable the allottee and promoter to exercise their respective rights and obligations at the time of booking and sale of any plot, apartment or building, as the case may be.

#### Implications:

Registration process for real estate agents has been streamlined and also compliance norms along with threshold limits has been notified.

#### 3. Chapter IV: Details to be published on the website of the Authority

Details of Promoter including the following:	Details of real estate project including the following:
<ul> <li>Developer or Group Profile i.e. Brief detail of his enterprise and Background of promoter</li> <li>Track Record of Promoter</li> <li>Litigations – Details of past or ongoing litigations in relation to real estate project.</li> <li>Website - Web link to developer or group website; Web link to project website</li> <li>Financial details of promoter</li> </ul>	<ul> <li>Compliance &amp; Registration</li> <li>Apartment &amp; Garage related details</li> <li>Registered Agents</li> <li>Consultants</li> <li>Location</li> <li>Development Plan</li> <li>Such other documents or information as may be specified</li> </ul>

- 1. The promoter shall upload updates of projects on the webpage, within 7 days from expiry of each quarter
- 2. The Promoter should also upload various documents such as NOC, Environment Clearance, Fire NOC, and Permission from Water & Sewerage department etc.
- 3. Regulatory Authority shall maintain a database and ensure that information specified therein shall be made available on its website in respect of each project revoked or penalized.
- 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.
- 5. On Application, authority may allow modifications or amendments of documents which are already published in the website.

**Implication:** Regulatory Authority shall ensure that necessary information shall be made available on its website in respect of each real estate agent registered with it or whose application or registration has been rejected.

#### 4. Chapter V: Rate of interest payable by promoter and allottee and timelines for refund

Rate of interest payable by the promoter and the allottee: The rate of interest payable under relevant sections shall be the prime lending rate of State Bank of India plus 2%.

**Timelines for refund:** Any refund along with the applicable interest and compensation, if any, payable by the promoter, shall be payable by the promoter to the allottee within 45 days from the date on which such refund becomes due.

**Implication:** Any interest rate payable under these regulations shall be the prime lending rate of State Bank of India plus 2% and any refund payable shall be within 45 days.

#### 5. Chapter IV: Details to be published on the website of the Authority

- 1) The Chairperson or a Member in the Regulatory Authority shall be appointed by the State Government making a reference to the Selection Committee. The Selection Committee shall select two persons for each vacancy and make the recommendations for the same to the State Government within a period of sixty days from the date of reference made under sub-rule (1).
- 2) The salaries, allowances conditions of service of the Chairperson and the Whole time Member shall be as per notification issued by the State Government from time to time.
- 3) Under this chapter, the Regulatory Authority is given additional powers such as;
- a) The Regulatory Authority may take assistance of 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.
- b) Require the promoter, allottee or real estate agent to furnish in writing such information or explanation or produce such documents which are necessary within such reasonable time, as it may deem necessary.
- c) Every complaint shall be heard by the Authority on the basis of affidavit and/or documents relied upon either in presence of the parties or through video conferencing as may deem fit and proper.

#### Implications:

The provisions to appoint a chairperson and various powers of chairperson and RERA have been notified.

#### **6. Chapter VII: Central Advisory Council**

On receiving recommendations from the Central Advisory Council, State Government shall pass such order, directions as may deem fit and proper in accordance with the provisions of the Act and the rules and regulations made thereunder.

#### 7. Chapter VIII: Real Estate Appellate Tribunal

- Form for filing Appeal and the fees payable: Every appeal shall be filed by presentation, accompanied
  by application fees of rupees one thousand which shall be paid either by way of demand draft on any
  scheduled bank or by way of Indian Postal Order or by electronic fund transfer system.
- 2. 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.
- 3. This Chapter also provides the **Salary and allowances payable and other terms and conditions** of service of Chairperson and Members of the Appellate Tribunal under section 48 and also of the officers and other employee of the Appellate Tribunal.
- 4. Procedure for inquiry of the charges against the Chairperson or Member of the Authority or the Appellate Tribunal under sections 26 and 49: In the event of the State Government becoming aware of occurrence of any of the circumstances specified in relevant section, in case of a Chairperson or Member of the Appellate Tribunal, by receipt of a complaint in this regard or Suo moto, as the case may be, the State 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.
- 5. This Chapter also provides various **additional powers of Appellate Tribunal** under section 53 and **additional powers of Chairperson** of Appellate Tribunal under section 54.

**Implication:** This notification has provided various functions of Appellate Tribunal also making the procedure of selection of members of Appellate Tribunal clear. It also gave clarification regarding salaries and allowance that should be given to the Chairperson, Members and other employees. Lastly this chapter also listed down the scope of Appellate Tribunal and its Chairperson by clarifying the additional powers that rests under them.

#### 8. Chapter IX: Offences and Penalties

#### Terms and conditions and fines payable for compounding of offence under section 70

Offence	Money paid for compounding the offence
Imprisonment u/s 59(2)	10% of the estimated cost of the real estate project
Imprisonment u/s 64	10% of the estimated cost of the real estate project
Imprisonment u/s 66	10% of the estimated cost of plot, apartment/building of the real estate project for which sale or purchase has been facilitated
Imprisonment u/s 68	10% of the estimated cost of the plot, apartment/building

# Manner of filing a complaint with Regulatory Authority and the manner of holding an inquiry by the Regulatory Authority-

- 1. An aggrieved person can file a complaint with the Regulatory Authority for violation of the Act or any rules or regulations thereunder in Form 'M' along with a fees of ₹1000
- 2. On the receipt of the complaint, the Regulatory Authority shall issue a notice containing the particulars of the complaint and date and time of the hearing to the respondent.
- 3. On the day of hearing, if the respondent pleads guilty then the plea is recorded and penalty is imposed. Otherwise an explanation is demanded from the respondent
- 4. After the hearing, if the Regulatory Authority thinks that the respondent is in contravention of the provisions of the Act then it shall pass orders including imposition of penalty. Otherwise Regulatory Authority shall by an order in writing dismiss the complaint and also the record reasons for the same.

# Manner of filing a complaint with Adjudicating Officer and the manner of holding an inquiry by the Adjudicating Officer-

- 1. An aggrieved person can file a complaint with the Adjudicating Officer for interest and compensation from the promoter under sections 12, 14, 18 and 19 in Form 'N' which shall be accompanied with a fees of ₹ 1000
- 2. On the receipt of the complaint, the Adjudicating Officer shall issue a notice to respondent for submission of a written reply, containing the date and time of the hearing.
- 3. The Adjudicating Officer shall allow a reasonable time, not more than 30 days, to the respondent to submit his written reply against the application.
- 4. If the respondent admits to the allegation, then the Adjudicating Officer passes an order in this regard and if the respondent denies the allegation then the Adjudicating Officer proceeds with the matter.

**Implication-** Insertion of the rules brings clarity on how the offences and penalties are dealt under the Act.

## **REVIEWED BY**



Sanket Bhalbar Article Assistant



**Karuna Kapadi** Article Assistant



**Vishnu Murugan** Article Assistant

## **PREPARED BY:**



**Sheldon Pereira** Article Assistant



**Ayush Chaudhary** Article Assistant



**Mayuri Shroff** Article Assistant



**Mrunal Ovhal** Article Assistant



**Riya Almeida** Article Assistant



Shreya Crasto Article Assistant



**Anjali Mhapankar** Article Assistant



Shubham Shedge Article Assistant

# **DISCLAIMER:**

The Contents of this document are solely for information purpose and knowledge sharing. It does not constitute professional advice or a formal recommendation. While due care has been exercised in preparing this document, we cannot rule out existence of errors and omissions.

# INDIA PRESENCE

## **Mumbai Office**

504, 5th Floor, Sahar Plaza Complex, Meadows, J.B. Nagar, Andheri East, Mumbai, Maharashtra - 400 059

**Kolkata Office** 

Suite no. 402, 4th Floor, Vardaan Complex, 25A Camac Street, Kolkata, West Bengal - 700 016

## **Delhi Office**

304-306 DLF Centre, Savitri Cinema Complex GK II, New Delhi - 110 048

## **Ahmedahad Office**

206, Shital Varsha, Shivranjani Cross Road, Satellite, Ahmedabad, Gujarat - 380 015

## **Vadodara Office**

3rd Floor, TNW Business Centre, Above McDonald, Near Manisha Cross Road, Old Padra Road, Vadodara, Gujarat - 390 007

# Kalyan Office

Shop No. 11 & 12, Regency Avenue, Below Gastrocare Hospital, Near Syndicate Bus Stop, Syndicate, Murbad Road, Kalyan(W), Maharashtra - 421 301

## **Mazgaon Office**

Ground Floor, Shop No. 11A, 345, New Sai Niketan CHS Ltd., Dr. Mascarenhas Road, Mazgaon, Mumbai, Maharashtra - 400 010

# **Thane Office**

108, Bal Ganesh Tower CHSL, Dada Patil Wadi, Near Thane Station, Thane West, Maharashtra - 400 602

Associate Presence: Bengaluru | Chennai | Pune | Cochin | Daman