

The Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017

Government of Andhra Pradesh
Municipal Administration and Urban Development (H) Department
G.O.Ms. No. 115

Dated: 27.03.2017

Notification

In exercise of the powers conferred by section 84 read with sub-clause (iv) of clause (g) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (Central Act No.16 of 2016), the Government of Andhra Pradesh, hereby makes the following rules, namely: —

Chapter-I Preliminary

1. Short title and Commencement

- (1) These rules may be called as the 'Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017'.
- (2) It shall extend to the whole State of Andhra Pradesh.
- (3) It shall come into force with effect from the date of publication in the Andhra Pradesh Gazette.

2. Definitions

(1) In these rules, unless the context otherwise requires, -

- (a) **"Act"** means, the Real Estate (Regulation and Development) Act, 2016 (Central Act No. 16 of 2016);
- (b) **"Annexure"** means, an annexure appended to these rules;
- (c) **"Appellate Tribunal"** means, the Andhra Pradesh Real Estate Appellate Tribunal [APREAT] established under sub-section (1) of section 43 of the Act;
- (d) **"Applicant"** means person making an application under section 4 of the Act;
- (e) **"Appropriate Government"** means, the State Government;
- (f) **"Authenticated copy"** shall mean, a self-attested copy of any document required to be provided by any person under these rules;
- (g) **"Authorised Representative"** means, a person duly authorised to present Application or to give reply on its behalf before the Authority or Appellate Tribunal;

(h) **“Authority”** means, the Andhra Pradesh Real Estate Regulatory Authority [APRERA] established under section 20 of the Act;

(i) **“Complainant”** means, any aggrieved person making a complaint under the Act;

(j) **“Disclosures”** means, the information and documents to be uploaded by the Promoter on the website of the Regulatory Authority as well as the information and documents, which he is liable to give or produce or cause to be given and produced to the person intending to take or invest in the project under the Act including those disclosures to the public at large through print media, electronic media, property exhibitions and promotional events under various related Acts;

(k) **“Form”** means, a form appended to these rules;

(l) **“Layout Plan”** means, a plan of the project depicting the division or proposed division of land into plots, roads, open spaces, amenities, etc. and other details as may be necessary;

(m) **“Legal Practitioner”** shall have the same meaning as is assigned to it in the Advocates Act, 1961 (Central Act No.25 of 1961);

(n) **“Limited common areas and facilities of a building”** means, entrance hall, staircases, lift, common passages on every floor, firefighting systems within building including fire chute, service floors or terraces above the upper most floor of the building but does not include utility areas;

(o) **“Ongoing Project”** means, a Project where development is going on and for which Occupancy Certificate or 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.

1) Where roads, open spaces, amenities and services have been handed over to the local authority in layout Projects.

2) Where all slabs are laid in housing projects

3) Where all developmental works have been completed and sale/lease deeds of 50% of the Apartments / Houses/ Plots have been executed

4) Where development works have been completed and application has been filed to the competent authority for issue of Completion or Occupancy Certificate.

(p) **“Project Land”** means, any parcel or parcels of land on which the project is developed and constructed by a promoter; and

(q) **“Section”** means, a section of the Act;

(2) Words and expressions used herein and not defined, but defined in the Act, shall have the same meaning respectively assigned to them in the Act.

Chapter-II Real Estate Project

3. Information and documents to be furnished by the promoter for registration of project:

3-A Application for Registration of Projects by Promoter:

(1) Application for registration of a proposed project shall be submitted by Promoter by himself or through his Authorized Representative accompanied with the passport size photograph of Promoter duly signed by Promoter in Form No. A to the Authority for the registration of the project and for displaying it on the website of the Authority. The Application shall be made in writing in Form No. A [in triplicate] until the application procedure is made web based as provided under sub-section (3) of section 4 of the Act.

(2) Application in case of the ongoing project, the Promoter shall himself or through his Authorised Signatory submit the same duly signed by him along with two passport size photographs in Form No. A for registration of the project application within a period of (90) days from the date of commencement of these Rules.

(3) The Application shall be submitted at the office of the Authority along with the Registration Fees as prescribed from time to time.

(4) The method of payment of Registration Fees shall be through NEFT or RTGS System at the time of filing of the web based online application or through a demand draft drawn on any scheduled bank in case of submission of the application at the Office of the Authority until the web based online application system is operationalized.

(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 and in sub-rule (2) of rule 7, registration fee to the extent of ten percent paid under sub-rules (3) and (4) above, or the amount as prescribed 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.

(6) Every promoter shall make separate application for registration of every project for the construction of each phase, separate building or group of buildings in case of Layout as may be with Authority: Provided that no such application shall be entertained where the Promoter has no title to the land unless the Agreement between the Owner of the Land and the Promoter, authorizing the Promoter to undertake the construction of the building, is duly registered.

3-B Contents of the Application for Registration of the Project:

(1) The promoter shall self-certify and attach the following documents along with the Application for registration in Form No. A and shall produce the original documents of the same for verification whenever so directed by the Authority, namely:-

(a) Name and Nature of Organization/Promoter;

(b) In case of Company or Partnership or Joint Venture, Cooperative Society, Firm, Association of Persons or body of individuals whether incorporated or not, any such other entity, Names and registered addresses of all the Directors/Partners/Office bearers

of the Society along with their respective DIN numbers, Telephone Nos, Email Address on which official correspondence is to be communicated;

(c) authenticated copy of the PAN card;

(d) audited balance sheet of the promoter for the preceding financial year and income tax returns of the promoter for three preceding financial years;

(e) Detailed description of land including the copy of land records of developable or non-developable land, development plan remarks with site plan;

(f) Details of the Agreement between the Owner of the land and the Promoter authorising the latter to undertake the construction of the building (Copy of the Registered Agreement to be Annexed);

(g) Nature of promoter's title to the land including copy of the title deed to be annexed along with the title Certificate regarding the Land for which application is preferred by the promoter;

(h) Nature of encumbrances on the land, including the right, title, interest or claim of any other person in or over such land (Details of the cases pending before the Authorities or in Courts of Law and their current status);

(i) Copy of Approvals obtained by the promoter in accordance with the laws for time being in force;

(j) Specify whether the project is to be developed in phases or otherwise;

(k) In case the project is to be developed in phases then the promoter shall submit the Approvals from the Competent Authority for the Phase to be undertaken;

(l) Copy of Sanctioned Plan, Layout Plan and specifications of the proposed project or the phase thereof, and the whole project as sanctioned by the Competent Authority;

(m) The copy of plan of development works to be executed in proposed project and proposed facilities to be provided thereof including firefighting facilities, drinking water facilities, emergency evacuation services, use of renewable energy;

(n) Full address of the proposed development project along with the land mark nearby;

(o) Location details of the project along with clear details of the land dedicated for the development project along with its boundaries including the latitude and Longitude of the end points of the project;

(p) Number of floors to be constructed in building and shall also disclose Number of Apartments for sale in the project on each floor, Carpet Area of such Apartments for Sale in the said project along with area of the Balcony and or Verandah or exclusive open terrace area if any;

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- (q) Disclose the number and areas of garages/parking areas for sale in the project;
 - (r) Names and addresses of the Civil Contractors, or turnkey contractor, or EPC Contractors, Structural Engineer of the project;
 - (s) Names and addresses of Architect, Engineer, Chartered Accountant or name of firm or company together with their office addresses;
 - (t) Disclose the names and addresses of his real estate agents, if any, for the proposed project along with their registration number under APRERA;
 - (u) Detailed technical specifications of the construction of the building/s as approved by the Competent Authority under any law for the time being in force;
 - (v) Estimate of the expenditure for the construction of the building and the source from which such expenditure is sought to be financed;
 - (w) Details of financial agreement made with any bank or other financial institution recognised by the Reserve Bank of India and of legal safeguards taken, if any, for the construction of building, or transfer of building by sale, gift or mortgage or otherwise;
 - (x) Copy of documents showing details of mortgage or any other legal encumbrances created on land in favour of any bank or financial institution recognised by the Reserve Bank of India;
 - (y) The period within which the physical possession of the apartment is to be handed over to allottees;
 - (z) Proforma of the Allotment Letter, Agreement for Sale and the Conveyance Deed proposed to be signed with the Allottee;
 - (aa) Details of the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the Competent Authority;
 - (bb) File and Structural Stability Certificate duly issued by Certified Structural Consultant/Engineer;
 - (cc) Details of insurance of title of the land and building as a part of real estate project and construction of the real estate project and any other insurance as may be required by the law.
- (2) The Promoter shall file a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating:—
- (a) that he has a legal title to the land on which the development is proposed along with valid documents with authentication of such title, if such land is owned by person other than the promoter;

- (b) that the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;
- (c) the time period within which he undertakes to complete the project or phase thereof, as the case may be;
- (d) The time schedule for connecting the building in which the apartment is proposed to be sold with the services such as sewerage, water supply, electricity, drainage and the like as applicable, subject to force majeure event;
- (e) The nature of the fixtures and fittings with regard to the flooring and sanitary fittings and the provision of one or more lifts to be provided with particulars in respect of the brand of items of fixtures, fittings and lift if they are branded or otherwise along with price range of items if not branded;
- (f) The particulars in respect of the design, type of concrete, material to be used in the construction of the building and the technology, prefabricated, precise, earthquake resistance and the like;
- (g) The particulars and numbers of firefighting facilities, drinking water facilities, emergency evacuation services, use of renewable energy, rain water harvesting systems, solid waste management, sewage treatment plant, solar plant;
- (h) that seventy per cent of the amounts realised 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 of the project and the land cost;
- (i) Promoter shall forthwith give information regarding any legal proceedings relating to the project if instituted before any legal authority or court of law and the order or directions if any issued after registration of project by it relating to such project to the Authority.
- (j) The promoter shall give an undertaking to the effect that he shall submit statement of Accounts duly certified and signed by the 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.
- (k) The promoter shall also give an undertaking to the effect that he shall take all the pending approvals from the competent authorities if any;
- (l) The details of insurances obtained by the promoter regarding title and construction of the project.
- (m) Shall give an undertaking in writing that promoter will inform within 30 days with regard to any change in ownership of promoter. (n) As required under clause (l) of sub-section (2) of section 4 of the Act the promoter shall submit the Declaration in Form 'B', stating that the he shall not discriminate against any allottee at the time of allotment of

any apartment, plot or building, as the case may be.

“Provided that, if there is any change of Civil Contractors, or turnkey contractor, or EPC Contractors, Structural Engineer, Engineer, Chartered Account or architect proposed to be engaged or actually engaged before or after the commencement of the construction of any building, as the case may be, the Promoter shall forthwith inform the APRERA of the name and address of such changed Contractor/s, Architect/s within (7) days from date of effecting such change.”

4. Disclosure by promoters of existing projects:

(1) The Promoter shall give detailed and self-certified information such as his ongoing Project details, including the status of the project and the extent of completion, completed Project details, Project wise information of bookings or any other information, if so demanded in writing by the intending Purchaser.

(2) The Promoter shall enter all the required documents, plans and information of the Project registered with the Authority on the Website of the Authority within a period of (15) days from the date of receipt of the Login ID and Password from the Authority.

(3) The Promoter shall display or keep all the documents, plans and specifications (or true copies thereof) referred to in the Act and the rules and the regulations at the Site of Project and at the Registered Office of the Promoter and permit inspection thereof to the person intending to purchase or invest in registered project of the promoter. Such person may ask the Promoter all relevant questions for seeking further information or clarification in respect of any documents or plans and specifications or such matter as is required to be disclosed, produced or furnished by or under the provisions of the Act; and the Promoter shall be legally bound to answer all such questions and provide such clarifications to the best of his knowledge and belief.

(4) Further the Promoter for the purposes of making disclosure of any documents or specifications of plans referred to in section 3 or prescribed or demanded thereunder may also be requested to produce the original of such document if so demanded, in writing by the person intending to purchase one or more flats/apartments or plots as the case may be and also disclose the draft of Agreement for Sale.

(5) In case of plotted development, the promoter shall disclose the area of the plots being sold to the allottees and also disclose the lands earmarked for the public purpose and the amenities to be provided in the layout and period of completion of the development of layout etc.

5. Withdrawal of sums deposited in separate account:

(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 etc.

(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. Grant or rejection of registration of the project:

6-A Grant of Registration of the Project:

(1) On receipt of the Application, the Authority or, as the case may be, the officer authorized by him shall enter the particulars of the Application in the Register of Applications to be maintained by the Authority in Form - Q and shall give Serial Number to the Application and endorse on every application the date on which it is presented and shall sign the endorsement.

(2) The Authority shall, within (30) working days from the date of receiving the application for the registration of the Project, scrutinize the Application and register the Project along with the Promoter if it is satisfied that,-

(a) the Project meets the criteria as laid down by the Act and rules made thereunder,

(b) the Project has all the necessary permissions as required under any law for the time being in force and is in consonance with the provisions of the Act and rules made thereunder and the regulations made by the Authority; and

(c) The Promoter has appropriate financial, technical, construction and management capacity to execute and complete the proposed Project.

(3) Upon registration of a project, the Authority shall issue a Certificate of Registration as per Form - C, with Registration Number to the Project along with the name of the Promoter.

(4) The Certificate of Registration shall be issued to the Promoter as well as the concerned authority that has sanctioned the plan for construction of building under any law for the time being in force.

(5) The Authority shall provide access to the Promoter to its Website by issuing a login ID and a Password for further uploading of all information as required by the Act and Rules.

(6) The names of Promoter and the registered Project shall be entered in a register to be maintained by the Authority in such manner as may be determined by it, by regulations.

(7) The Authority may, without prejudice to the generality of sub rules (3) and (4), require any guarantee, indemnity, undertaking or such other security to be furnished by Promoter before granting Certificate of Registration as may be deemed necessary to satisfy itself in respect of the requirements contemplated in sub-rules (3) and (4).

(8) The registration and the Login Id as well as Pass word granted to the promoter shall be valid for a period declared by the Promoter under subclause (C) of clause (1) of sub-section (2) of section 4 of the Act for completion of the project or phase thereof, as the case may be.

“Provided that if the Authority fails to grant the registration or reject the application as the case may be, as provided under sub-section (1) of section 5 of the Act, the project shall be deemed to have been registered and the Authority shall within a period of seven days specified under subsection (1), provide a registration number and Login Id and Password to the promoter for accessing the website of the Authority and to create his web page and to fill

therein the details of the proposed project.

6-B Refusal of Registration of the Project:

(1) If the Authority, on receipt of application for registration of the Project, is of the opinion that the registration shall be refused for non-submission of necessary documents along with the Application or incomplete Application, it shall issue a notice to the Promoter in writing mentioning details of documents which are not submitted along with the Application and give such time as the Authority may deem fit and proper for submission of the documents and completion of Application;

(2) If the promoter fails or neglect to submit the necessary documents called by the Authority within period stipulated in the notice, then the Authority shall after giving opportunity of hearing to the promoter refuse to grant registration of the project;

(3) If the Authority, on receipt of application /documents for registration of the Project, is of the opinion that the registration shall be refused on certain reasons, it shall issue a notice to the Promoter in writing mentioning its intention to reject the application and the reasons therefor calling upon promoter to give reasons as to why his registration shall not be refused on the grounds mentioned in the notice within period specified in the notice;

(4) The Promoter shall file his reply to notice within time stipulated in the said notice through himself or through his Authorised Representative or Legal Representative;

(5) Pending consideration of the Application for registration of project by the Authority, the Promoter shall not make any advertisement for sale of Project or create any third party interest in the project; (6) If the Authority on considering the representations of the Promoter, is of the view that the Promoter has not met the requirements of section 4 of the Act or Rules satisfactorily, it shall reject the application by assigning reasons as per Form - D and convey its decision to Promoter so also to the concerned Authority who has sanctioned the project under any law for the time being in force.

7. Extension of registration of the project:

(1) The registration granted under section 5, may be extended as per section 6, on an application made by the promoter in Form 'E' 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 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 Regulatory 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 as per 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 as per Form 'D':

(5) Pending such Application, promoter will not be entitled to sell any apartment/flat/plot.

8. Revocation of Registration of the project:

Upon the revocation of registration of a project as per section (7) the regulatory authority shall inform the promoter about such revocation as per Form 'D'.

9. Agreement for sale:

(1) For the purpose of sub-section (2) of section 13, the agreement for sale shall be in the form as per Annexure 'A'.

(2) Any application letter, allotment letter or any other document signed by the allottee, in respect of the apartment, plot or building, prior to the execution and registration of the agreement for sale for such apartment, plot or building, as the case may be, shall not be construed to limit the rights and interests of the allottee under the agreement for sale or under the Act or the rules or the regulations made thereunder.

Chapter-III Real Estate Agent

10. Application for Registration by the real estate agent:

(1) Every real estate agent required to register as per sub-section (2) of section 9 of the Act shall make an application in writing to the Regulatory Authority as per 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) details of projects if any for which he has acted as agent in last 5 years before the date of submission of form for registration;
- (e) the Agent shall disclose if there are any civil or criminal cases pending against him;
- (f) authenticated copy of the PAN card;
- (g) Income tax returns filed under the provisions of the Income tax Act, 1961(Central Act No.43 of 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(Central Act No.43 of 1961) for any of the three year preceding the application, a declaration to such effect;

(h) authenticated copy of the address proof of the place of business; and

(i) such other information and documents, as may be specified by regulations.

(2) The real estate agent being an individual or other than an individual shall pay a registration fee as prescribed, at the time of application for registration by way of a demand draft drawn on any scheduled bank or as may be specified by the Authority.

11. Grant of Registration to the Real Estate Agent:

(1) Upon the registration of a real estate agent as per section 9 read with Rule 10, the Regulatory Authority shall issue a registration certificate with a registration number as per Form 'H' to the real estate agent.

(2) In case of rejection of the application as per section 9 the Regulatory Authority shall inform the applicant as per Form 'I'. "Provided that, no application for registration of an Agent shall be rejected unless the applicant has been given an opportunity of being heard in the matter by the Regulatory Authority."

(3) The registration granted under this rule shall be valid for a period five years.

12. Renewal of registration of real estate agent:

(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 or as may be specified by the Authority, for a sum of rupees as prescribed in case of the real estate agent being an individual or rupees as prescribed 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 (a) 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 as per Form 'K' and in case of rejection of the application for renewal of registration the regulatory authority, shall inform the real estate agent as per 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 of five years.

13. Revocation of Registration of real estate agent:

The Regulatory 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'.

14. Functions of a Real Estate Agent:

Every registered Real Estate Agent shall -

(1) not facilitate the sale or purchase of any plot, Apartment or building as the case may be, in the real estate Project or part of it, being sold by the promoter in any planning area which is not registered with the Regulatory Authority;

(2) maintain and preserve such books of account, records and documents in accordance with the provisions of the Income tax Act, 1961(Central Act No.43 of 1961) and also as prescribed by regulations of the Regulatory Authority;

(3) not involve himself in any unfair trade practices, namely:—

(a) the practice of making any statement, whether orally or in writing or by visible representation which—

(i) falsely represents that services or amenities are of a particular standard or grade;

(ii) represents that the Promoter or himself has approval or affiliation which such Promoter or himself does not have;

(iii) makes a false or misleading representation concerning the services which the Promoter does not have;

(b) permitting the publication of any advertisement whether in any newspaper or other media of services that are not intended to be offered by the Promoter;

(4) facilitate the possession of all the information and documents, as the allottee is entitled to, at the time of booking of any plot, apartment or building or as the case may be;

(5) maintain the register of Allottees in Form - R and the statement indicating person wise receipts and disbursement in respect of sums accepted as advance from the Allottees and the statement indicating purpose wise receipts in respect of sums accepted as advance or commission and shall be in Form - S respectively;

(6) discharge such other functions as prescribed by the regulations of the Regulatory Authority.

Chapter-IV Details to be published on the Website of the Authority

15. Details to be published on the website:

(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:

(a) Details of the promoter including the following:

(i) Developer or Group Profile:

(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.

(ii) Track record of the promoter:

(A) number of years of experience of the promoter or parent entity in real estate construction in the State;

(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 subsection (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/parking related details:

(A) Details of the number, type and carpet area of apartments for sale in the project as provided under clause (h) of subsection (2) of section 4;

(B) Details of the number and areas of garage/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 as provided under clause (j) of sub-section (2) of section 4.

(iv) Consultants: Details, including name and addresses, of contractors, architect 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) License Number and the validity of the license as issued by the Competent Authority

(E) 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 firefighting 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) Finances of the promoter:

(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/parking areas 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:

(i) Approvals:

(A) No Objection certificates

(1) Consent to Establish and Operate;

(2) Environmental Clearance;

(3) NOC from A P Disaster Response and Fire Services Department;

(4) Permission from Water and Sewerage department/ concerned Local Authority dealing with such function;

(5) Height clearance from Airport Authority of India;

(6) Latest Copy of the receipt of the Tax paid for Property/ Land to the concerned Local Authority;

(7) 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 each of such phases;

(C) Authenticated copy of the site plan or site map showing the location of the project land along with names of revenue estates, survey numbers, cadastral numbers, khasra numbers and area of each parcels of the project land;

(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 and completion certificate including its application.

(ii) 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) Sanction letters:

(1) From banks for construction finance;

(2) From banks for home loan tie-ups.

(f) 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 penalised, 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 (Central Act No.43 of 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 years preceding the application, a declaration to such effect;

(vii) authenticated copy of the address proof 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 have 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.

(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

16. Rate of interest payable by the promoter and the allottee:

The rate of interest payable by the promoter to the allottee or by the allottee to the promoter, as the case may be, shall be the State Bank of India Prime Lending Rate plus two percent.

17. Timelines for refund:

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.

Chapter-VI Real Estate Regulatory Authority

18. Manner of selection of Chairperson and Members of the Authority:

(1) The Government shall within a period of one year from the date of coming into force of the Act, by notification, establish an Authority to be known as Real Estate Regulatory Authority to exercise the powers conferred on it and to perform the functions assigned to it under the Act.

(2) The Authority shall consist of a Chairperson and three whole time members and they shall be appointed by the Government on the recommendations of a Selection Committee.

(3) The Chairperson and the Members shall have adequate knowledge of and professional experience of at-least twenty years in case of the Chairperson and fifteen years in case of the Members in Economics, Urban Development, Housing, Real Estate Development,

Infrastructure, Town Planning, Law, Commerce, Accountancy, Industry, Management, Social Service, Public Affairs or Administration.

“Provided that a person who is, or has been, in the service of the State Government shall not be appointed as a Chairperson unless such person has held the post of Additional Secretary to the Central Government or any equivalent post in the Central Government or State Government;

Provided further that a person who is, or has been, in the service of the State Government shall not be appointed as a member unless such person has held the post of Secretary/Additional Secretary to the State Government or any equivalent post in the State Government or Central Government.”

(4)(i) As and when the vacancies of Chairperson or a Member in the Regulatory Authority exist or arise or are likely to arise, for the purposes of appointment and to fill such vacancies the Government shall constitute a Selection Committee consisting of-

(a) Chief Justice of the High Court of the State or his nominee;

(b) The Additional Chief Secretary or Principal Secretary or Secretary to the Government, Municipal Administration & Urban Development Department; and

(c) Secretary to the Government, Law Department.

(ii) The Chief Justice of the High Court of the State or his nominee shall be the Chairman of the Selection Committee.

(iii) All members of the Committee including the Chairman shall be present at the time of meeting of the Committee.

(5) (a) The Government shall constitute a Search Committee to suggest a panel of names possessing requisite qualification and experience and suitable for being considered for appointment as Chairperson or Member of the Authority.

(b) Search Committee shall finalize a panel of suitable persons and forward the same to the Selection Committee.

(c) The Selection Committee shall select a panel of eligible persons for each vacancy and recommend the same to the Government within fifteen days from the date of reference made.

(6) The State Government shall on the basis of the recommendations of the Selection Committee appoint Chairperson and Members and the said list shall be valid for a period of two years.

(7) The Notice or the Agenda, as the case may be, for the meeting of the Selection Committee shall be issued in advance. The date and venue for the meeting shall be fixed within the convenience of the Chairman of Selection Committee.

(8) Medical Fitness: No person shall be appointed as a Chairperson or member unless he is declared medically fit by a Medical Board to be constituted by the State Government for the purpose unless he has been already declared fit by an equivalent authority.

Chapter-VII Salary and Allowances payable and other terms and conditions of service of Chairperson and Members of the regulatory authority

19. Salary And Allowances:

(1) The salaries and allowances payable to the Chairperson and Members of the Regulatory Authority shall be as follows:

(a) The Chairperson of the Authority shall be paid a salary equivalent to that of the Chief Secretary of the Government;

(b) The whole-time Members shall be paid salary equivalent to that of the Principal Secretary of the Government;

(c) 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 fixed by the government, from time to time and they shall not be entitled to any allowance relating to house and vehicle.

(2) Dearness Allowance and City Compensatory Allowance.- The Chairperson or the Member of the Authority shall be entitled to receive Dearness Allowance and other allowances at the rate as are admissible to the Chief Secretary of the Government or Principal Secretary of the Government respectively: Provided that in case a person appointed as the Chairperson or a Member is in receipt of any pension, the pay of such person shall be in accordance with the existing Government rules. Provided further that the Chairperson and other Members shall be entitled to draw admissible allowance on the original basic pay before such fixation of pay.

(3) Leave.- (a) The Chairperson or a Member shall be entitled to thirty days of earned leave for every year of service. The payment of leave salary during the leave shall be as admissible to the Chief Secretary or the Principal Secretary as the case may be. The Chairperson or Member shall be entitled to encashment of fifty percent of earned leave to his credit at any time.

(b) Leave Sanctioning Authority: Leave sanctioning authority in case of,-

(i) The Chairperson of the Authority, shall be the Minister-in-charge of the Municipal Administration and Urban Development Department of the Government; and

(ii) The Members of the Authority shall be the Chair person.

(4) Travelling Allowance and Daily Allowance.- (a) The Chairperson and the Members while on tour (including the journey undertaken or any expiry of his term to proceed to his hometown) shall be entitled to travelling allowances, daily allowance, transportation of personal effects and other similar matters at the same rate as admissible to the Chief

Secretary or the Principal Secretary of the Government as the case may be;

(b) The Chairperson and every Member shall be his own controlling officer in respect of his bills relating to travelling allowances and daily allowances; and

(c) Domestic official tours: The Chairperson and a Member, while on tour, shall be entitled to the facility of government accommodation in the guest house or inspection bungalows run by the Government or hotel accommodation in case Government accommodation is not available, as applicable to Chief Secretary or Principal Secretary of Government.

(5) Leave Travel Concession.- The Chairperson and Members shall be entitled to Leave Travel Concession (L.T.C.) at the same rates as admissible to the Chief Secretary or the Principal Secretary to the Government as the case may be.

(6) Medical Facilities.- The Chairperson and Members shall be entitled to medical treatment and hospital facilities as provided to the members of Indian Administrative Service of the corresponding grade in the Government.

(7) Official Visits Abroad.- The Chairperson and Members shall be entitled to undertake official visits abroad with the prior approval of the Government through Municipal Administration and Urban Development Department and after clearance from Ministry of External Affairs, Government of India. The daily allowance and provision of accommodation during the period of tour abroad shall be regulated in accordance with the Government instructions as applicable to the Chief Secretary or the Principal Secretary respectively of the Government. (8) Conveyance facility: The Chairperson and a Member shall be entitled to conveyance facilities as admissible to Chief Secretary and Principal Secretary to the Government respectively.

(9) Accommodation to Chairperson and Members.- (a) The Chairperson of the Authority shall be entitled to residential accommodation as admissible to the Chief Secretary of the Government;

(b) A Member shall be entitled to residential accommodation as admissible to the rank of Principal Secretary to the Government drawing an equivalent pay. On demitting office, the Chairperson and Member shall be entitled to retention of residential accommodation for one month, on the same terms and conditions; and

(c) If the Chairperson or the Member has his own accommodation or residential house in the headquarters and does not avail Government accommodation, then he is entitled to get house rent allowance admissible to the Chief Secretary to the Government and Principal Secretary to Government respectively.

(10) Telephone facilities: The Chairperson or Members of the Authority shall be entitled to telephone facilities as admissible to the Chief Secretary and Principal Secretary of the Government respectively.

(11) Other allowance: The Chairperson and Members of the Authority shall be entitled to such other allowance as are applicable to Chief Secretary or Principal Secretary respectively

in the Government.

(12) Notwithstanding the provisions contained in this rule if the Chairperson or the Member is a serving officer of the State or Central Government, his entitlement shall be higher of those admissible to him under the applicable service rule.

20. Tenure of office:

(1) The Chairperson and every Member shall, unless removed from office under sub-section (1) of section 26, hold office for a period not exceeding five years from the date he takes charge of the office in that capacity, or till the age of sixty five years, whichever is earlier.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most (in order of appointment) Member of the Real Estate Regulatory Authority holding office for the time being shall discharge the functions of the Chairperson until the day on which the Chairperson resumes the charge of his functions.

(3) If a vacancy occurs in the office of the Chairperson by reason of his death or resignation, the Government shall nominate Senior most Member as per seniority of date of appointment to act as the Chairperson and the Member so nominated shall hold office of the Chairperson until the vacancy is filled by a fresh appointment under sub-section (3) of Section 24 of the Act. Till that period the senior-most (in order of appointment) Member of the Real Estate Regulatory Authority holding office for the time being shall discharge the functions of the Chairperson until the day on which the Chairperson resumes the charge of his functions.

21. Oath of Office and Secrecy:

Every person appointed to the Chairperson under the Act shall, before entering upon his office, make and subscribe an oath of office and secrecy.

22. Declaration of financial or other interest:

Before appointment, the Chairperson and the Member shall have to give an undertaking that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.

23. Administrative powers of the Chairperson of the regulatory authority:

(1) The Chairperson of the regulatory authority shall obtain the prior approval of the State Government with regard to the following:

- (a) all matters pertaining to creation and abolition of posts;
- (b) all matters pertaining to pay and allowances of the officers and staff of the authority;
- (c) authorization of tours to be undertaken by any Member, officer or employee outside India and allowance to be granted for the same;
- (d) permission for hiring of vehicles for official use;

(2) The Chairperson of the regulatory authority is competent to exercise the following powers subject to control and review by the Government.

- (a) To make appointments to the posts of the officers and employees of the Authority from a panel prepared by the Selection Committee;
- (b) acceptance of resignations by any Member, officer or employee;
- (c) Making arrangements for officiating against sanctioned posts;
- (d) authorization of tours to be undertaken by any Member, officer or employee: within India and allowance to be granted for the same;
- (e) all matters in relation to reimbursement of medical claims as per the existing Government Orders;
- (f) all matters in relation to grant or rejection of leaves.
- (g) all matters relating to disciplinary action against any Member, officer or employee;

(3) Manner of selection of officers and employees of the Authority:

- (a) The Government shall constitute a Selection Committee with the following composition to make selections for officers and employees of the Authority;
- (b) The Selection Committee shall consist of the Chair Person of the Authority, Principal Secretary to the Government, MA & UD department and Principal Secretary to the Government, Finance department;
- (c) The Chairperson of the Authority shall be Chairman of the Selection Committee.
- (d) The Selection Committee may devise its own procedure for selection of the officers and employees of the Authority.
- (e) The Selection Committee shall follow the procedures prescribed for the Departmental Promotion Committees in the Government in making promotions for the officers and employees of the authority.

Chapter-VIII Powers and Functions of the Authority

24. Functioning of the Authority:

- (1) The office of the regulatory authority shall be located at such place as may be determined by the Government by notification.
- (2) The working days and office hours of the regulatory authority shall be the same as that of the Government.
- (3) The official common seal and emblem of the regulatory authority shall be such as the Government may specify.

25. Additional powers of the Authority:

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

(a) to 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) to requisition, subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (Central Act No.1 of 1872), any public record or document or copy of such record or document from any office.

(2) The regulatory authority may call upon such experts or consultants from the fields of urban planning, urban land administration, disaster management, fire services, accountancy, real estate, , construction, architecture, structural engineering or engineering or from any other discipline as it deems necessary, to assist the regulatory 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 (l) of sub-section (2) of section 4; or

(b) used any amounts paid to such promoter by the allottees for the 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.

26. Manner of recovery of interest, penalty and compensation:

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.

27. Manner of implementation of order, direction or decisions of the adjudicating officer, the Authority or the Appellate Tribunal:

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 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-IX Service Conditions of the Officers and Other Employees of the Authority

28. Categories of officers and other employees of the Authority and Pay Scales:

The nature and categories of the officers and other employees of the Authority shall be recommended by the Authority for consideration of the Government which shall be approved with or without modifications, as the case may be, by the Government.

29. Service conditions of the officers and other employees:

The conditions of service of the officers and employees of the Authority 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.

30. Experts and consultants engaged:

- (1) Consultants or experts may be engaged by the Authority with the prior approval of the Government;
- (2) Monthly remuneration payable to the consultants and experts shall be as may be fixed by the Government;
- (3) the consultant or expert shall not be deemed to be regular members of the staff borne on the establishment of the Authority;

(4) the consultant or expert may be appointed for a tenure of one year, extendable on year to year basis;

(5) the tenure of their appointment may be terminated by the Authority by serving one month's notice.

Chapter-X Real Estate Appellate Tribunal

31. Establishment of Real Estate Appellate Tribunal:

The Government shall, within a period of one year from the date of coming into force of this Act, by notification, establish an Appellate Tribunal to be known as the Andhra Pradesh Real Estate Appellate Tribunal.

32. Composition of Appellate Tribunal:

The Appellate Tribunal shall consist of a Chairperson and three whole time Members of which one shall be a Judicial member, one Town Planning Technical and one Administrative Member, to be appointed by the Government.

33. Qualifications for appointment of Chairperson and Members:

(1) A person who is or has been a Judge of a High Court may be appointed as Chairperson;

(2) In the case of a Judicial Member he has held a judicial office in the territory of India for at least fifteen years or has been a member of the Indian Legal Service and has held the post of Additional Secretary of that service or any equivalent post, or has been an advocate for at least twenty years with experience in dealing with real estate matters;

(3) In the case of a Technical member, he is a person who is well-versed in the field of urban planning & development, housing, real estate development, infrastructure, economics, planning laws and possesses experience of at least twenty years in the field or who has held the post in the State Government in the equivalent cadre of Director of Town and Country Planning or an equivalent post in the Central Government.

(4) In the case of an Administrative member, he is a person who is well-versed in the field of urban development, economics, law, Commerce, Accountancy, Industry, Management, Public Affairs or Administrative and possesses experience of at least twenty years in the field or who has held the post in the Central Government, or a State Government equivalent to the post of Additional Secretary to Government of India or an equivalent post in the Central or State Government.

34. Manner of selection of members of the Appellate Tribunal:

(1) The Judicial members and Technical or Administrative members shall be appointed by the Government on the recommendations of a Selection Committee constituted by the Government consisting of Chief Justice of High Court of the State or his nominee, Additional Chief Secretary or Principal Secretary or Principal Secretary to Government Municipal Administration and Urban Development Department and Additional Chief Secretary or

Principal Secretary or Secretary to Government, Law Department.

(2) The Chairperson of the Appellate Tribunal shall be appointed by the Government in consultation with the Chief Justice of High Court of the State or his nominee.

(3) The Chief Justice of the High Court or his nominee shall be the Chairman of the Selection Committee.

(4) All members of the Committee including the Chairman shall be present at the time of meeting of the Committee.

(5) The Notice or the Agenda, as the case may be, for the meeting of the Selection Committee shall be issued in advance. The date and venue for the meeting shall be fixed within the convenience of the Chairman of Selection Committee.

(6) The Selection Committee may devise its own procedure as deem fit including the appointment of Search Committee and may lay down guidelines and procedure to invite applications from eligible persons as per the qualifications specified and also the process of interview for selection of the Members who are possessing the requisite qualification and experience and suitable for appointment as a Members of the Regulatory Tribunal:

(7) The Selection Committee shall make its recommendation to the Government within a period of sixty days from the date of reference made under sub-rule (1).

(8) The Selection Committee shall recommend in the form of a panel of not more than two persons in order of preference separately for each vacancy or posts to the State Government for consideration.

(9) The State Government shall on the basis of the recommendations of the Selection Committee make a list of persons selected for appointment as Members and the said list shall be valid for a period of two years.

(10) 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 each vacancy or post of the Members, as the case may be.

35. Salary and allowances payable and other terms and conditions of service of Chairperson and Members of the Appellate Tribunal:

(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 equivalent to the Additional Secretary to the Government of India;

(d) 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 admissible to a Judge of High Court or Additional Secretary to Government on India as the case may be- Provided that such entitlement shall not be less than what he is otherwise eligible in case of serving Government servant.

(4) The term of office of the Chairperson and the Members shall be such as provided in Section 47.

36. Retirement from Government Service:

A person in the service of the Government, on his selection as a Member, shall have to retire from service before entering upon his office as a Member.

37. Oath of Office and Secrecy:

Every person appointed to the Chairperson under the Act shall, before entering upon his office, make and subscribe an oath of office and secrecy.

38. Declaration of financial or other interest:

Before appointment, the Chairperson and the Member shall have to give an undertaking that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.

39. Residuary provision:

Matters relating to the terms and conditions of service of the Chairperson or Member, with respect to which no express provision has been made in these rules, shall be referred by the Appellate Tribunal to the State Government for its decision.

40. Administrative powers of the Chairperson of the Appellate Tribunal:

(1) The Chairperson of the Appellate Tribunal shall obtain the prior approval of the State Government with regard to the following:

(a) all matters pertaining to creation and abolition of posts;

(b) all matters pertaining to pay and allowances of the officers and staff of the Appellate Tribunal;

(c) permission for hiring of vehicles for official use;

(2) The Chairperson of the Appellate Tribunal is competent to exercise the following powers subject to control and review by the Government.

(a) To make appointments to the posts of the officers and employees of the Appellate Tribunal from the panel prepared by the Selection Committee;

(b) acceptance of resignations by any Member, officer or employee;

(c) Making arrangements for officiating against sanctioned posts;

(d) all matters in relation to reimbursement of medical claims as per the existing Government Orders;

(e) all matters in relation to grant or rejection of leaves. (f) all matters relating to disciplinary action against any Member, officer or employee

(3) Manner of selection of officers and employees of the Appellate Tribunal:

(a) The Government shall constitute a Selection Committee with the following composition to make selections for officers and employees of the Appellate Tribunal;

(b) The Selection Committee shall consist of the Chair Person of the Appellate Tribunal, Principal Secretary to the Government, Municipal Administration & Urban Development Department and Principal Secretary to the Government, Finance department;

(c) The Chairperson of the Appellate Tribunal shall be Chairman of the Selection Committee.

(d) The Selection Committee may devise its own procedure for selection of the officers and employees of the Appellate Tribunal.

(e) The Selection Committee shall follow the procedures prescribed for the Departmental Promotion Committees in the Government in making promotions for the officers and employees of the Appellate Tribunal.

41. Categories of officers and other employees of the Authority and Pay Scales:

The nature and categories of the officers and other employees of the Tribunal shall be recommended by the Tribunal for consideration of the Government which shall be approved with or without modifications, as the case may be, by the Government.

42. Service conditions of the officers and other employees:

The conditions of service of the officers and employees of the Appellate Tribunal 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.

43. Additional powers of the Appellate Tribunal:

The Appellate Tribunal may call upon such experts or consultants from the fields of economics, commerce, accountancy, real estate, 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.

44. Form for filing Appeal and the fees payable:

(1) Every appeal filed under sub-section (1) of section 44 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 the Appellate Tribunal and payable at the main branch of that Bank at the station where the seat of the said Appellate Tribunal is situated.

(2) Every appeal shall be filed as per **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.

45. Procedure for inquiry of the charges against the Chairperson or Member of the Authority or the Appellate Tribunal:

(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 suo motu, 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 of 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.

46. Powers of the designated Judge:

(1) The designated Judge shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908(Central Act No.5 of 1908), but shall be guided by the principles of natural justice and shall have power to regulate his own procedure including the fixing of places and time of the enquiry.

(2) The designated Judges shall have, for the purposes of discharging his functions under these rules, the same powers as vested in a civil court under the Code of Civil Procedure, 1908 (Central Act No.5 of 1908), while trying a suit, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of document;
- (c) receiving evidence on affidavits; and
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (Central Act No.1 of 1872), requisitioning any public record or document or copy of such record or document from any office.

Chapter-XI Offences and Penalties

47. Terms and conditions and the fine payable for compounding of offence:

(1) 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:

| S. No. | Offence | Money to be paid for compounding the offence |
|---------------|--|---|
| 1. | Imprisonment under sub section (2) of section 59 | 10% of the estimated cost of the real estate project. |
| 2. | Imprisonment under section 64 | 10% of the estimated cost of the real estate project. |

- | | | |
|----|-------------------------|---|
| 3. | Imprisonment section 66 | 10% of the estimated cost of the plot, apartment or underbuilding, as the case may be, of the real estate project, for which the sale or purchase has been facilitated. |
| 4. | Imprisonment section 68 | under 10% of the estimated cost 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.

48. Manner of filing a complaint with the regulatory authority and the manner of holding an inquiry by the regulatory authority:

(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, as per 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 said regulatory authority is situated.

(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 and 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.

49. Manner of filing a complaint with the adjudicating officer and the manner of holding an inquiry by the adjudicating officer:

- (1) Any aggrieved person may file a complaint with the adjudicating officer for compensation under section 12, 14, 18 and 19 as per 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.
- (2) The adjudicating officer shall for the purposes of adjudging compensation follow summary procedure for inquiry in the following manner:
- (a) 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;
 - (b) The notice shall specify a date and time for further hearing;
 - (c) 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:

- (i) 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 there under;
 - (ii) does not plead guilty and contests the complaint the adjudicating officer shall demand and explanation from the promoter;
- (d) 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;
- (e) 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;
- (f) The adjudicating officer 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 adjudicating officer upon consideration of the evidence produced before him and other records and submissions is satisfied that the promoter is-
- (i) 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
 - (ii) not liable to any compensation, the adjudicating officer 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 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.

Chapter-XII Miscellaneous

50. Interpretation:

If any question arises relating to the interpretation of these rules or when express provision has not been made in these rules about a particular matter, the same shall be referred to the Government for its decision and decision of the Government shall be binding.

51. Residuary provision:

Matters relating to the terms and conditions of service of the Chairperson or a Member, with respect to which no express provision has been made in these rules, shall be referred by the Authority to the Government for its decision, and the decision of the Government thereon shall be applicable to the Chairperson or Member, as the case may be.

52. Power to relax:

The Government shall have power to relax any provision of these rules in respect of Chairperson or any other Member for reasons to be recorded.

Chapter-XIII Budget and Report**53. Budget, Accounts and Audit:**

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 as per Form 'O'.

54. Report and Returns:

The regulatory authority shall prepare its annual report as provided in section 78 as per Form 'P'.

R. Karikal Valaven
Principal Secretary to Government
Section Officer

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