

Real Estate (Regulation and Development) Act, 2016

Chapter I – Preliminary

Section 1 - Short title, extent and commencement: (1) This Act may be called the Real Estate (Regulation and Development) Act, 2016.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Section 2 - Definitions

In this Act, unless the context otherwise requires,--

(a) "adjudicating officer" means the adjudicating officer appointed under sub-section (1) of section 71;

(b) "advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

(c) "agreement for sale" means an agreement entered into between the promoter and the allottee;



(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

(e) "apartment" whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;

(f) "Appellate Tribunal " means the Real Estate Appellate Tribunal established under section 43;

(g) "appropriate Government" means in respect of matters relating to,--

(i) the Union territory without Legislature, the Central Government;

(ii) the Union territory of Puducherry, the Union territory Government;



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**(iii) the Union territory of Delhi, the Central Ministry of Urban Development;**

**(iv) the State, the State Government;**

**(h) "architect" means a person registered as an architect under the provisions of the Architects Act, 1972 (20 of 1972);**

**(i) "Authority" means the Real Estate Regulatory Authority established under sub-section (1) of section 20;**

**(j) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;**

**(k) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.**

**Explanation.-- For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;**

**(l) "Chairperson" means the Chairperson of the Real Estate Regulatory Authority appointed under section 21;**

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**(m) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;**

**(n) "common areas" mean--**

**(i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase, the entire land for that phase;**

**(ii) the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;**

**(iii) the common basements, terraces, parks, play areas, open parking areas and common storage spaces;**

**(iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;**

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

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

**(vii) all community and commercial facilities as provided in the real estate project;**

**(viii) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;**

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**(o) "company" means a company incorporated and registered under the Companies Act, 2013 (18 of 2013) and includes,--**

**(i) a corporation established by or under any Central Act or State Act;**

**(ii) a development authority or any public authority established by the Government in this behalf under any law for the time being in force;**

**(p) "competent authority" means the local authority or any authority created or established under any law for the time being in force by the appropriate Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;**

**(q) "completion certificate" means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;**

**(r) "day" means the working day, in the concerned State or Union territory, as the case may be, notified by the appropriate Government from time to time;**

**(s) "development" with its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re-development;**

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**(t) "development works" means the external development works and internal development works on immovable property;**

**(u) "engineer" means a person who possesses a bachelor's degree or equivalent from an institution recognised by the All India Council of Technical Education or any University or any institution recognised under a law or is registered as an engineer under any law for the time being in force;**

**(v) "estimated cost of real estate project" means the total cost involved in developing the real estate project and includes the land cost, taxes, cess, development and other charges;**

**(w) "external development works" includes roads and road systems landscaping, water supply, sewage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;**

**(x) "family" includes husband, wife, minor son and unmarried daughter wholly dependent on a person;**

**(y) "garage" means a place within a project having a roof and walls on three sides for parking any vehicle, but does not include an unenclosed or uncovered parking space such as open parking areas;**

**(z) "immovable property" includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, standing crops or grass;**

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**(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.**

**Explanation.-- For the purpose of this clause--**

**(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;**

**(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;**

**(zb) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as education health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;**

**(zc) "local authority" means the Municipal Corporation or Municipality or Panchayats or any other Local Body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;**

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**(zd) "Member" means the member of the Real Estate Regulatory Authority appointed under section 21 and includes the Chairperson;**

**(ze) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;**

**(zf) "occupancy certificate" means the occupancy certificate, or such other certificate by whatever name called, issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;**

**(zg) "Person" includes,--**

**(i) an individual;**

**(ii) a Hindu undivided family;**

**(iii) a company;**

**(iv) a firm under the Indian Partnership Act, 1932 (9 of 1932) or the Limited Liability Partnership Act, 2008 (6 of 2009), as the case may be;**

**(v) a competent authority;**

**(vi) an association of persons or a body of individuals whether incorporated or not;**

**(vii) a co-operative society registered under any law relating to co-operative societies;**

**(viii) any such other entity as the appropriate Government may, by notification, specify in this behalf;**

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**(zh) "planning area" means a planning area or a development area or a local planning area or a regional development plan area, by whatever name called, or any other area specified as such by the appropriate Government or any competent authority and includes any area designated by the appropriate Government or the competent authority to be a planning area for future planned development, under the law relating to Town and Country Planning for the time being in force and as revised from time to time;**

**(zi) "prescribed" means prescribed by rules made under this Act;**

**(zj) "project" means the real estate project as defined in clause (zn);**

**(zk) "promoter" means,--**

**(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or**

**(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or**

**(iii) any development authority or any other public body in respect of allottees of--**

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(a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or

(b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or

(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or

(vi) such other person who constructs any building or apartment for sale to the general public.

**Explanation.--** For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the 3[person] who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;

(zl) "prospectus" means any document described or issued as a prospectus or any notice, circular, or other document offering for sale 4[of] any real estate project or inviting any person to make advances or deposits for such purposes;

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**(zm) "real estate agent" means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;**

**(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or 5[apartments], as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;**

**(zo) "regulations" means the regulations made by the Authority under this Act;**

**(zp) "rule" means the rules made under this Act by the appropriate Government;**

**(zq) "sanctioned plan" means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which**

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are approved by the competent authority prior to start of a real estate project;

(zr) words and expressions used herein but not defined in this Act and defined in any law for the time being in force or in the municipal laws or such other relevant laws of the appropriate Government shall have the same meanings respectively assigned to them in those laws.

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