



महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-अ

वर्ष २, अंक १०९(४)]

गुरुवार, डिसेंबर ८, २०१६/अग्रहायण १७, शके १९३८

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असाधारण क्रमांक १६४

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने केंद्रीय अधिनियमान्वये तयार केलेले
(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

HOUSING DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated 8th December 2016

NOTIFICATION

THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016.

No. REA. 2016/CR No.79/DVP-2 .—The following draft of rules which the Government of Maharashtra proposes to make in exercise of powers conferred by sub-sections (1) and (2) of section 84 of the Real Estate (Regulation and Development) Act, 2016, and of all other powers enabling it in that behalf, is hereby published, for information of all the persons likely to be affected thereby; and notice is hereby given that the said draft rules will be taken into consideration by the Government of Maharashtra on or after the 23rd December 2016.

2. Any objections or suggestions, either through e-mail *viz.* “suggesstionsonrera@maharashtra.gov.in”, or in post, which may be received by the Principal Secretary, Housing Department, Mantralaya, Mumbai 400 032, from any person with respect to the said draft on or before the aforesaid date, will be considered by the Government.

DRAFT RULES

In exercise of the powers conferred by sub-sections (1) and clauses (g), (i), (j), (k), (r), (s), (u), (zb), (zc) and (zf) of sub-section (2) of section 84 of the Real Estate(Regulation and Development) Act, 2016, and of all other powers enabling it in that behalf, the Government of Maharashtra, after considering the objections and suggestions pursuant to the Government Notification, Housing Department, No. ***, dated the *** of 2016, published in the Maharashtra Government Gazette, Extraordinary, Part IV-A, dated the *** of *** 2016 , is hereby pleased to make the following rules, as follows, namely:-

1. *Short title and commencement.* - (1) These rules may be called the Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2016.

2. *Definitions.*- In these rules, unless the context otherwise requires,-

(a) "Act" means the Real Estate (Regulation and Development) Act, 2016;

(b) "Appellate Tribunal" means the Maharashtra Real Estate Appellate Tribunal established under sub-section (1) of section 43 of the Act by the State Government by notification in the *Official Gazette*, for such area or areas as may be specified in the notification and include different Appellate Tribunal as may be established for different areas;

(c) "Authority" means the Real Estate Regulatory Authority established under the sub-section (1) of section 20 of the Act, by the State Government by notification in the *Official Gazette*, for such area or areas as may be specified in the notification and include different Authorities as may be established for different areas;

(d) "Chairperson" means the Chairperson of the Authority appointed under section 21 of the Act;

(e) "Form" means the forms appended to these Rules;

(f) "Member" means a whole-time Member of the Authority appointed under section 21 of the Act;

(g) "State Government" or "Government" means the Government of Maharashtra.

(2) Words and expressions used hereinabove but not defined shall have the same meaning as respectively assigned to them in the Act;

3. Manner of recovery of Interest, penalty and compensation.-Any interest or penalty or compensation imposed on a promoter or an allottee or a real estate agent shall be recoverable under section 40 of the Act, from such promoter or allottee or real estate agent, in the manner provided in the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), as an arrears of land revenue.

4. Manner of implementation of order, direction or decision 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, 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, the 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, 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, resides, or carries on business, or personally works for gain.

5. Terms and conditions and the fine payable for compounding of offence.-(1) The court may, for the purposes of compounding of any offence under section 70, accept a sum of money as specified in the Table below:-

TABLE

Offence	Money to be paid for compounding the offence
offence under sub section (2) of section 59	2% of the estimated cost of the real estate project which may extend upto 10%.
offence under section 64	5% of the estimated cost of the real estate project which may extend upto 10%.
offence under section 66	5% of the estimated cost of the plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated, which may extend upto 10%.
offence under section 68	5% of the estimated cost of the plot, apartment or building, as the case may be, which may extend upto 10%.

(2) The Officer authorised by the Government may with the approval of the Authority, accept from any person charged with such offence, by way of composition of the offence, a sum specified in the Table to sub-rule (1).

(3) On payment of the sum of money in accordance with the table above, no further proceeding shall be taken against the accused person in respect of the same offence, and any proceedings is already taken or initiated shall stand abated, and the accused person, if in custody, shall be discharged.

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

6. Manner of filing a complaint with the adjudicating officer under section 71.-(1) Any aggrieved person may file a complaint with the adjudicating officer for compensation under section 12, 14, 18 and 19 in Form 'A' appended to these Rules, which shall be accompanied by a fee of rupees one thousand.

(2) The fees shall be paid through NEFT or RTGS system at the time of the filing online application or through a pay order or demand draft drawn on any Scheduled bank.

7. Procedure to be followed by adjudicating officer.-(1) The adjudicating officer shall for the purposes of adjudging compensation follow the following procedure for inquiry.

(2) Upon receipt of the complaint the adjudicating officer shall issue a notice alongwith particulars of the alleged contravention and the relevant documents to the promoter and the applicant or their authorized representative; the notice shall specify a date, time and place for hearing;

(3) On the date so fixed the adjudicating officer shall require the applicant and promoter to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry. Thereafter, 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.

(4) The adjudicating officer shall record the plea, and direct to pay such compensation as he thinks fit in accordance with the provisions of the Act or the rules and regulations, made thereunder.

(5) The adjudicating officer shall before passing any order under sub-rule (4), consider the factors specified in section 72 of the Act.

(6) 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.

(7) If, upon consideration of the evidence produced before the adjudicating officer and other records and submissions, the adjudicating officer is satisfied that the person has become liable to pay compensation under any of the provisions of the Act or rules, regulations, directions or orders, the adjudicating officer may, by order in writing, order payment of compensation, as deemed fit.

8. Manner of service of notice and order.-(1) Adjudicating Officer shall deliver a certified copy of the order to the complainant and respondent.

(2) A notice or an order issued under these rules shall be served on the person in any of the following manners,-

(a) by delivering or tendering it to that person or person's authorised agent in an electronic form provided that there is sufficient evidence of actual delivery of the electronic record to the concerned person; or

(b) by sending it to the person by registered post with acknowledgement due to the address of his place of residence or the last known place or residence or business place; or

(c) if it cannot be served under clause (a) or (b) above, then by affixing it, in the presence of two witnesses, on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided, or carried on business or personally works or last worked for gain.

9. Form for filing Appeal to Appellate Tribunal and the fees payable.-(1) Every appeal filed under sub-section (1) of section 44 shall be accompanied by a fee of rupees five thousand

through NEFT or RTGS system or through pay order or demand draft drawn on any Scheduled bank in favour of the Appellate Tribunal where the seat of the said Appellate Tribunal is situated.

(2) Every appeal shall be filed in Form 'B' appended to these rules along with the following documents,-

- (a) 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) index of the documents.

FORM 'A'

[See rule 6(1)]

APPLICATION TO ADJUDICATING OFFICER

(Claim for compensation under section 31 read with section 71 of the Act)

For use of Adjudicating Officers office:

Date of filing: _____

Date of receipt by post: _____

Application No.: _____

Signature: _____

Authorized Officer: _____

IN THE ADJUDICATING OFFICERS OFFICE (Name of place)

Between _____ applicant(s) And _____

Respondent(s)

Details of claim:

1. Particulars of the applicant(s):

(i) Name of the applicant:

(ii) Address of the existing office / residence of the appellant:

(iii) Address for service of all notices:

(iv) Details of allottees apartment, plot or building

2. Particulars of the respondents:

- (i) Name(s) of respondent:
- (ii) Office address of the respondent:
- (iii) Address for service of all notices:
- (iv) Registration no. and address of project:

3. Jurisdiction of the Adjudicating Officer:

The applicant declares that the subject matter of the claim falls within the jurisdiction of the adjudicating officer.

4. Facts of the case:

(give a concise statement of facts and grounds of claim against the promoter)

5. Compensation(s) sought:

In view of the facts mentioned in paragraph 4 above, the applicant prays for the following compensation(s) _____

(Specify below the compensation(s) claimed explaining the grounds of claim(s) and the legal provisions (if any) relied upon)

6. Claim not pending with any other court, etc.:

The applicant further declares that the matter regarding which this appeal has been made is not pending before any court of law or any other authority or any other tribunal(s).

7. Particulars of the fee in terms of sub-rule (1) of rule 6:

- (i) Amount
- (ii) Details of fee paid.

8. List of enclosures:

(Specify the details of enclosures with the application)

Verification

I _____ (name in full block letters) son /daughter of _____ the applicant do hereby verify that the contents of paragraphs (1 to 8) are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place:

Date:

Signature of the applicant(s)

FORM 'B'
(See rule 9 (2))
APPEAL TO APPELLATE TRIBUNAL
under section 44 of the Act

For use of Appellate Tribunal's office:

Date of filing: _____

Date of receipt by post: _____

Registration No.: _____

Signature: _____

Registrar: _____

IN THE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL (Name of place)

Between _____ Appellant(s)

And

_____ Respondent(s)

Details of appeal:

1. Particulars of the appellants:

(i) Name of the appellant:

(ii) Address of the existing office / residence of the appellant:

(iii) Address for service of all notices:

2. Particulars of the respondents:

(i) Name(s) of respondent:

(ii) Office address of the respondent:

(iii) Address for service of all notices:

3. Jurisdiction of the Appellate Tribunal: The appellant declares that the subject matter of the appeal falls within the jurisdiction of the Appellate Tribunal.

4. Limitation:

The appellant declares that the appeal is within the limitation specified in sub-section (2) of section 44

OR

If the appeal is filed after the expiry of the limitation period specified under sub-section (2) of section 44 specify reasons for delay _____

5. Facts of the case:

(give a concise statement of facts and grounds of appeal against the specific order of regulatory authority or the adjudicating officer, as the case may be passed under section(s) _____ of the Act.

6. Relief(s) sought:

In view of the facts mentioned in paragraph 5 above, the appellant prays for the following relief(s) _____

(Specify below the relief(s) sought explaining the grounds of relief(s) and the legal provisions (if any) relied upon)

7. Interim order, if prayed for:

Pending final decision on the appeal the appellant seeks issue of the following interim order:
(Give here the nature of the interim order prayed for with reasons)

8. Matter not pending with any other court, etc.:

The appellant further declares that the matter regarding which this appeal has been made is not pending before any court of law or any other authority or any other tribunal(s).

9. Particulars of the fee in terms of sub-rule (1) of rule 9:

- (i) Amount
- (ii) Details of fee paid.

10. List of enclosures:

- (i) An attested true copy of the order against which the appeal is filed
- (ii) Copies of the documents relied upon by the appellant and referred to in the appeal
- (iii) An index of the documents

Verification

I _____ (name in full block letters) son/ daughter of _____ the appellant do hereby verify that the contents of paragraphs (1 to 10) are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place:

Date:

Signature of the appellant(s)

By order and in the name of the Governor of Maharashtra,

R.K. DHANAWADE,

Deputy Secretary to Government.