



महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-अ

वर्ष २, अंक १०९(२)]

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

[पृष्ठे १२, किंमत : रुपये १५.००

असाधारण क्रमांक १६२

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-section (1) and clauses (l), (m), (n), (o) and (zf) of sub-section (2) of section 84 of the Real Estate(Regulation and Development) Act 2016 (16 of 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 , hereby make the following rules for the establishment of the Real Estate Regulatory Authority, as follows, namely:-

**CHAPTER I
PRELIMINARY**

1. *Short title and commencement.* - These rules may be called the Maharashtra Real Estate Regulatory Authority, Officers and Employees (Appointment and Service Conditions) Rules, 2016.

2. *Definitions.- (1)*In these rules, unless the context otherwise requires,–

(a) "Act" means the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(b) "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;

(c) "Consultant" means a consultant appointed by the Authority for carrying out the purposes of the Act;

(d) "Form" means the Forms annexed to these rules

(e) "section" means section of the Act;

(f) "Selection Committee" means the committee specified in section 22 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 respectively assigned to them in the Act.

CHAPTER II

REAL ESTATE REGULATORY AUTHORITY

3. *Real Estate Regulatory Authority.*- The Government may by notification in the *Official Gazette* establish one or more Authority under sub-section (1) of section 20 of the Act, for such area as may be specified in the notification.

4. *Selection Committee Procedure.*-(1) The State Government shall make a reference to the Selection Committee for appointment of the Chairperson and Members of the Authority or when any vacancy arise or likely to arise in the Authority.

(2) The Selection Committee may, for the purpose of selection of the Chairperson or Member of the Authority, follow such procedure as deemed fit including appointment of a search committee consisting of such persons as the Selection Committee considers appropriate to suggest a panel of names possessing the requisite qualification and experience specified in section 22 of the Act and suitable for being considered for appointment as Chairperson or Member of the Authority.

(3) The Selection Committee shall thereafter make a recommendation to the State Government for the consideration in the form of a panel of not more than three persons in order of preference separately for the post of vacancy or vacancies referred to by the State Government.

(4) The Selection Committee shall make its recommendations to the State Government, within a period not exceeding sixty days from the date of reference made under sub-rule (1).

(5) The Selection Committee shall normally hold its meeting at Mumbai or at such places, as may be decided by the Chairperson by recording reasons for the change of the venue of such meeting.

(6) The Notice/Agenda, as the case maybe, for the meeting of the Selection Committee shall be issued in advance. The date and venue for the meeting shall be fixed with the convenience

of the Chairperson of the Selection Committee.

(7) The Secretary of the Housing Department shall be the convener of the Selection Committee.

5. Appointment of Chairperson and Members.-The State Government shall consider the recommendations of the Selection Committee for the appointment of the Chairperson and Members or to fill the vacancy in order of preference as recommended by the Selection Committee. If the State Government appoints person not according to the order of preference, the Government shall record the reasons in writing therefor.

CHAPTER III

SALARY AND ALLOWANCES

6. Salaries and allowances and other conditions of service of Chairperson and Members of Authority.-

(a) The salary and allowances payable to the Chairperson and Members of the Authority shall be as follows.-

(i) The Chairperson of the Authority shall be paid a monthly salary equivalent to that of the Chief Secretary of the State Government.

(ii) The Members of the Authority shall be paid a salary equivalent to the Principal Secretary of the State Government.

(iii) **Dearness allowance and city compensatory Allowance.**-The Chairperson and the Members of the Authority shall be entitled to receive dearness allowance and city compensatory allowance at the rate as are admissible to the Chief Secretary of the State Government or Principal Secretary of the State Government, respectively.

(b) **Leave.**-(i) The Chairperson and Members 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 Principal Secretary, as the case may be, in the State Government. The Chairperson or Member shall be entitled to encashment of fifty percent of earned leave to his credit at any time.

(ii) *Leave sanctioning authority.*- Leave sanctioning authority in case of,-

(a) the Chairperson of the Authority, shall be the Minister-in-charge of the Housing Department of the State Government; and

(b) the Members of the Authority, shall be the Chairperson;

(c) *Travelling allowance and daily allowance.*-(i) The Chairperson and the Members while on tour (including the journey undertaken or on 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 and Principal Secretary of the State Government respectively.

(ii) The Chairperson shall be the controlling officer in respect of bills relating to travelling allowances and daily allowances.

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

(e) *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 and Principal Secretary of the State Government, respectively.

(f) *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 State Government.

(g) *Official visits abroad.*- The Chairperson and Members shall be entitled to undertake official visits abroad with the prior approval of the Minister-in-charge of the Housing Department and after clearance from Ministry of External Affairs on the points related to political affairs. The daily allowance and provision of accommodation during the period of tour abroad shall be regulated in accordance with the State Government instructions as

applicable to the Chief Secretary and Principal Secretary, respectively of the State Government.

(h) *Conveyance facility.*- The Chairperson and Members shall be entitled to conveyance facilities as admissible to the Chief Secretary and Principal Secretary of the State Government respectively.

(i) *Accommodation to Chairperson and Members.*-

(i) the Chairperson of the Authority shall be entitled to residential accommodation as admissible to the Chief Secretary of the State Government;

(ii) the Members shall be entitled to residential accommodation as admissible to the rank of the Principal Secretary to the State Government drawing an equivalent pay.

Provided that if the Chairperson or a member of the Authority is staying in his own accommodation, he shall be paid a House Rent Allowance at the same rate as admissible to the Chief Secretary and Principal Secretary to the State Government respectively.

On demitting office, the Chairperson and Members shall be entitled to retention of residential accommodation for one month, on the same terms and conditions.

(j) *Telephone facilities.*-The Chairperson and Members of the Authority shall be entitled the telephone facilities as admissible to the Chief Secretary and Principal Secretary of the State Government, respectively.

(k) *Other allowance.*- The Chairperson and Members of the Authority shall be entitled to such other allowance as are applicable to the Chief Secretary or Principal Secretary respectively in the State Government.

7. If a serving officer of the State or Central Government is appointed as the Chairperson or Member of the Authority, as the case may be, his salary and allowances shall be as per rule 5 during the period he is holding the said post:

Provided that, such entitlement shall not be less than what he is otherwise eligible in case of serving government servant.

8. Tenure of office.- (1) Tenure of Office: The term of office of the Chairperson and Members shall be in accordance with Section 23(1) and (2) of the Act.

(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 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 any vacancy occurs in the office of the Chairperson by reason of his death or resignation, the State Government shall nominate Senior most Member as per seniority of date of appointment to act as Chairperson and the Member so nominated shall hold office of 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 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.

9. Oath of office and secrecy.- (1) Every person appointed as the Chairperson of the Authority shall, before entering his office, make and subscribe an Oath of Office and Secrecy, in Form I and Form II, respectively, appended to these Rules, before the Minister in charge of the Housing Department of the Government.

(2) Every person appointed as a Member of the Authority shall, before entering his office, make and subscribe an Oath of Office and Secrecy, in Form I and Form II, respectively, appended to these Rules, before the Chairperson of the Authority.

10. Declaration of financial or other Interest.- Before appointment, the Chairperson and the Member shall have to take an undertaking in Form III 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.

CHAPTER IV

PROCEDURE OF INQUIRY AND REMOVAL OF CHAIRPERSON AND MEMBERS

11. Procedure of inquiry .- (1) Whenever the State Government is of the opinion that there are reasonable grounds for making an inquiry against the Chairperson or Members under the grounds specified in sub-section (1) of section 26 of the Act the Government may,

after consulting the Chief Justice of Judicature at Bombay, appoint a Judge for the purpose of conducting such inquiry.

(2)The Government shall inform the charges against the Chairperson or such Members, as the case may be.

(3)The State Government shall forward to the Judge so appointed copies of ,-

(a) the statement of charges against the Chairperson or Members, as the case may be;

(b) material documents and other evidences relevant to the inquiry.

12.Powers of the Judge.- (1)The Judge so appointed, shall deliver or cause to be delivered to the Chairperson or Member, as the case may be, a copy of the charges and a list of documents, if any, and shall require him to submit within such time as may be allowed, a written reply or statement of his defence.

(2)The Judge 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.

(3)The Judge 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 (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 evidenc on affidavits; and

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office.

(4) Where it is alleged that the Chairperson or Member of the Authority 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 take necessary action as deems fit for the medical examination of the Chairperson or Member of the Authority.

(5) After the conclusion of the inquiry, the Judge shall submit his report to the State Government stating therein his findings and the reasons thereof on each charges separately with such observations as he thinks fit. The report of inquiry shall be submitted to the State Government along with the finding of the inquiry wherein clearly indicating the allegations are proved or otherwise.

(6) On the basis of the report of the Inquiry along with the recommendations so received, the State Government shall in consultation with the Chief Justice of the Judicature at Bombay by Order decide either to remove or otherwise the Chairperson or Member, as the case may be.

13. Filling of vacancy.-The State Government shall initiate necessary action to fill the vacancy of the Chairperson or Member, as the case may be, caused by such removal.

CHAPTER V

CONDITIONS OF SERVICE OF OFFICERS AND OTHER EMPLOYEES OF AUTHORITY

14. Categories of officers and employees of the Authority and pay scales.- The officers and employees required in the office of the Authority shall be recommended by the Authority for the consideration of the State Government which shall be approved with or without modifications, as the case may be, by the State Government.

15. Conditions of service.- The conditions of service of the officers and employees of the Authority appointed by the State Government 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 State Government and drawing the corresponding scales of pay.

CHAPTER VI

MISCELLENOUS

16. Consultants or experts or agency may be engaged by the Authority with the prior approval of the Government to facilitate the discharge of functions under sections 32 and 34 of the Act. The consultants or experts or agency,-

(a) shall be paid a monthly honorarium as may be determined by the State Government, from time to time.

(b) shall not be deemed to be regular members of the Staff borne on the establishment of the Authority.

(c) may be appointed for a tenure of one year. The tenure may be extended on year to year basis.

(d) the terms of their appointment may be terminated by the Authority by serving one months notice.

17. 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 State Government for its decision. The State Government shall take decision after recording reasons within the framework of the Act. The decision of the State Government shall be binding on the Authority.

18. Residuary provision.- Matters relating to the terms and conditions of service of the Chairperson and Members with respect to which no express provision has been made in these rules, shall be referred by the Authority to the State Government for its decision, and the decision of the State Government thereon shall be binding on the Chairperson or Members, as the case may be.

FORM – I

(See rule 9 (1))

Form of Oath of Office for the Chairperson/Members of the Real Estate Regulatory Authority

I, _____, having been appointed as the Chairperson / Member (cross the portion not applicable) solemnly affirm and (or) do swear in the name of God I will faithfully and conscientiously discharge my duties as the Chairperson/Member (cross the portion not applicable), of the Real Estate Regulatory Authority, to the best of my ability,

knowledge and judgement, without fear or favour, affection or ill-will.

(Name of the Chairperson / Member)

Dated :

Real Estate Regulatory Authority.

FORM – II

(See rule 9 (2))

Form of Oath of Secrecy for the Chairperson/Members of the Real Estate Regulatory Authority

I, _____, having been appointed as the Chairperson/Member (*cross out portion not applicable*) do solemnly affirm and swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the Chairperson/ a Member (*cross out portion not applicable*), of the Real Estate Regulatory Authority except as may be required for the due discharge of my duties as the Chairperson/ a Member (*cross out portion not applicable*).

Dated:

(Name of the Chairperson/Member)

Real Estate Regulatory Authority.

FORM – III

(See rule 10)

Declaration against acquisition of any adverse financial or other interest

I _____, having been appointed as the Chairperson/Member (*cross out portion not applicable*) of the Real Estate Regulatory Authority, do solemnly affirm and declare that I do not have, nor shall have in future any financial or other interest which is likely to affect

prejudicially my functioning as the Chairperson /Member (cross out portion not applicable),
of the Real Estate Regulatory Authority.

Dated:

(Name of the Chairperson/Member)

Real Estate Regulatory Authority.

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

R. K. DHANAWADE,

Deputy Secretary to Government.