

No.O-17034/18/2009 – Housing (Vol. III)/FTS - 4451
Government of India
Ministry of Housing & Urban Poverty Alleviation
(Housing Section)

Nirman Bhawan, New Delhi
November 09, 2011

OFFICE MEMORANDUM

**SUB : DRAFT REAL ESTATE (REGULATION & DEVELOPMENT) BILL, 201_ -
COMMENTS THEREON.**

The undersigned is directed to forward herewith the hard and soft copy of the draft Real Estate (Regulation & Development) Bill, 201_ for uploading on the website of the Ministry. This may put under "What is new" ticker. It may also be indicated clearly on the link that comments on the draft may be submitted to the Ministry on the following e-mail address within 30 days from issue of this O. M. i.e. November 09th, 2011.

responseonrealestatebill@yahoo.in

2. In view of the time line prescribed, the draft Legislation may be put on the web-site immediately.
3. This has the approval of the Competent Authority.

(Surendra Singh Meena)
Under Secretary to the Government of India
Tele. No. 23062252

To,

Director (NIC),
Ministry of Housing & Urban Poverty Alleviation,
Nirman Bhawan,
New Delhi

**THE REAL ESTATE (REGULATION & DEVELOPMENT)
BILL, 2011**

A

Bill

to establish the Real Estate Regulatory Authority for regulation and planned development in the real estate sector and to ensure sale of immovable properties in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and establish an Appellate Tribunal to adjudicate disputes and hear appeals from the decisions or orders of the Authority and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Real Estate (Regulation & Development) Act, 2011. Short title,
extent and
commenceme
nt
- (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.
2. In this Act, unless the context otherwise requires, - Definitions
 - (a) **“advertisement”** means any document described or issued as advertisement through any form of media and includes any notice, circular or other documents offering for sale of a plot, apartment or building or inviting persons to purchase in any manner such plot, apartment or building to make advances or deposits for such purposes;
 - (b) **“allottee”**, in relation to a premises of an immovable property, means the person to whom such premises or immovable property has been allotted, sold or otherwise transferred by the promoter and includes the person who subsequently acquires the said allotment through transfer or otherwise;
 - (c) **“apartment”** whether called dwelling unit, flat, premises, suite, tenement, unit or by any other name, means a separate and self-contained part of any property located in a basement or cellar or on one or more floors or any part thereof, in a residential building or on a plot of land, used or intended to be used for residence, or for any other type of independent use ancillary to the purpose specified and includes any garage room or open space, whether or not adjacent to the residential building in

which such apartment is located which has been provided by the promoter for the use of the allottee for parking any vehicle, or as the case may be, for the residence of any domestic help employed in such apartment;

(d) **“Appellate Tribunal”** means the Real Estate Appellate Tribunal established under section 35;

(e) **“Appropriate Government”** means in respect of matters relating to the,-

(i) Union territory, the Central Government;

(ii) State Government, the State Government;

20 of 1972

(f) **“architect”** means a person registered as an architect under the provisions of the Architects Act, 1972;

(g) **“Authority”** means the Real Estate Regulatory Authority established under sub-section (1) of section 17;

(h) **“building”** includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or other related purposes;

(i) **“Chairperson”** means the Chairperson of the Real Estate Regulatory Authority appointed under section 18;

(j) **“carpet area”** means the net usable floor area of an immovable property, excluding the area covered by the walls and the common areas;

1 of 1956

(k) **“company”** means a company incorporated and registered under the Companies Act, 1956 and includes, -

(i) a corporation established by or under the 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;

(l) **“competent authority”** means the local authority or any authority created under the law made by the State Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(m) **“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;

(n) **“development charges”** means the cost of development works and includes all charges levied by the competent authority by whatever name called towards the development of the real estate project on immovable property;

(o) **“development works”** means the external development works and internal development works on immovable property;

(p) **“engineer”** means a person who possesses a bachelor’s degree or equivalent from an institution recognized by the All India Council of Technical Education or is registered as an engineer under any law for the time being in force;

(q) **“estimated cost of real estate project”** means the total cost involved in developing the real estate project and includes land cost;

(r) **“external development works”** includes roads and road systems, landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station of any other work which may have to be executed in the periphery of, or outside, a colony for its benefit, as may be specified under the rules or bye-laws of the local authority;

(s) **“internal development works”** means footpaths, water supply, sewers, drains, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and silage water or any other work in a colony necessary for its proper development;

(t) **“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;

(u) **“interest”** means the rate of interest payable by the promoter or the allottee, as the case may be, under the agreement for sale for default by either party.

Explanation.- For the purposes of this clause, the rate of interest chargeable from the allottee by the promoter shall not be more than the rate of interest which the promoter would be liable to pay the allottee in case of default;

(v) **“local authority”** means the Municipal Corporation or Municipality or Local Body constituted under any law for the time being in force and legally entitled to exercise control in respect of the areas under their respective jurisdiction;

(w) **“Member”** means the member of the Real Estate Regulatory Authority appointed under section 18 and includes the Chairperson;

(x) **“notification”** means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(y) **“owner”** means the owner or any subsequent owner of an immovable property having undivided interest in common areas and facilities appurtenant to it, in terms of the specific percentage specified in conveyance deed or agreement of sale or deed of allotment, as the case may be, executed under any law for the time being in force, and includes a person having any right or liability under the agreement by assignment or by operation of law;

(z) **“person”** includes, -

(i) an individual;

(ii) a Hindu undivided family;

(iii) a company;

(iv) a firm;

(v) a local authority;

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

(vii) any such other entity as the Appropriate Government may, by notification in the Official Gazette, specify in this behalf;

- (za) **“prescribed”** means prescribed by rules made under this Act;
- (zb) **“project”** means the real estate project under this Act;
- (zc) **“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 a colony for the purpose of selling to other persons all or some of the plots, whether with or without structures thereon; or
 - (iii) any development authority or any other public body in respect of allottees of—
 - (a) buildings or apartments 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, colonizer, 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 colony 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 colony for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters;
- (zd) **“real estate agent”** means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his property, by way of sale, with another person or transfer of property of any other person to him and receives remuneration or fees or any other charges for his services whether as a commission or otherwise and includes a person who introduces to prospective buyers and sellers to each other for negotiation for sale or purchase of immovable property and includes property dealers, brokers, middlemen by whatever name called;
- (ze) **“real estate project”** includes the activities of, -
- (i) development of immovable property including construction thereon or alternation thereof and their management;

- (ii) sale, transfer and management of immovable properties;
- (zf) **“regulations”** means the regulations made by the Authority under this Act;
- (zg) **“rules”** means the rules made by the Appropriate Government under this Act.

CHAPTER II

REGISTRATION OF REAL ESTATE PROJECT AND TRANSFER OF IMMOVABLE PROPERTIES

3. No promoter shall develop any immovable property or make any construction thereon or alteration thereof or convert any existing undeveloped immovable property or part of it without registering the real estate project and obtaining a certificate of registration from the Real Estate Regulatory Authority established under this Act: Prior registration with Real Estate Regulatory Authority
- Provided** that no such registration shall be required,-
- (a) when the area of land proposed to be developed does not exceed 4000 square meters, or an area as notified by the Central Government in consultation with the States and Union Territories from time to time, which may be different for different States or Union Territories;
- (b) where the promoter has sought all permissions and received all requisite approvals for the development of immovable property one year prior to the commencement of this Act;
- (c) for the purpose of renovation or repair which does not involve re-allotment and marketing of immovable property.
- Explanation.-* For the purpose of this Act, where immovable property is to be developed in phases then every such phase shall be considered a standalone real estate project, and the promoter would have to seek registration under the Act for each phase separately:
- Provided** that the promoter who has been carrying on the business of real estate sector on the commencement of this Act, before the expiry of the period of six months from such commencement shall apply in writing to the Authority for obtaining a certificate of registration under this Act:
- Provided** further that in case a promoter who has been carrying on the business of real estate sector on the commencement of this Act, nothing in this section shall be deemed to prohibit such promoter from carrying on the business of real estate, until it is granted a certificate of registration or is by notice in writing informed by the Authority that the certificate of registration cannot be granted to it.
4. (1) Every promoter shall make an application to the Authority for registration of the project for development of any immovable property in such form accompanied by such fee and other information as may be prescribed. Application to Authority
- (2) The prescribed form referred to in sub-section (1) shall include but not be limited to the information relating to the number and size of plots, layout plan, proposed project and the proposed facilities to be provided thereof.

(3) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely:-

(a) an authenticated copy of the approval and sanction from the competent authority obtained in accordance with the laws as maybe applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approval and sanction from the competent authority for each of such phases;

(b) a declaration which shall be signed by the promoter stating,-

(i) that he has a legal title to the land on which the development is proposed along with a legally valid authentication of such title if such land is owned by another person;

(ii) that the land is free from all encumbrances, or as the case may be, of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;

(iii) his affirmation that the project or the phase of the project shall be completed as the case may be in accordance with the terms and conditions of the registration;

(iv) the period of time within which he undertakes to complete the project or phase thereof, provided it is within the period of sanction by the competent authority;

(v) that seventy percent of the amounts realized for the real estate project from the allottees, from time to time, would be deposited in a separate account to be maintained in a scheduled bank, within fifteen days of its realization for meeting the costs of the real estate project and would be used only for that purpose;

Explanation.- For the purpose of this clause, the term “scheduled bank” means a bank included in the second schedule to the Reserve Bank of India Act, 1934.

(vi) that he has furnished such other documents as may be prescribed by the rules or regulations made under this Act.

(4) On receipt of the application under sub-section (1), the Authority shall within a period of thirty days from the date of receipt of the applications complete the process of the scrutiny of the applications submitted to it.

(5) The Authority, after scrutiny of the applications shall—

(a) grant registration subject to the provisions of this Act and the rules and the regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of this Act:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(6) For reasons beyond its control, if the Authority fails to complete the scrutiny of the applications within the aforesaid period, the applicants may be permitted provisional access to the website of the Authority and allowed to enter the project details in respect of the projects covered in the

application on the website:

Provided that the Authority shall furnish a detailed report for every three months to the Appropriate Government, with reasons for delay on projects for which registration has not been granted within the aforesaid period of thirty days.

(7) The Authority shall grant the registration to the promoter, if it is satisfied that the promoter has—

(a) entered into an agreement with the Competent Authority for completion of the development works;

(b) complied all the provisions of this Act and the rules and the regulations made thereunder; and

(c) furnished the information required by the Authority.

(8) The registration granted under this section shall be valid for a period declared by the promoter under sub--clause (iv) of clause (b) of sub-section 3 for completion of the project or phase thereof, as the case may be.

(9) The Authority shall, after registration, issue a Login Id and password to the applicant for accessing the website of the Authority and permit the promoter to access the website of the Authority to create his web page and to fill therein the details of the proposed project.

5. (1) The registration granted under section 4 may be renewed by the Authority for a further period of one year on an application made by the promoter in such form and on payment of such fee as may be prescribed: Renewal of registration

Provided that the registration so renewed shall not be for a period more than that extended by the Competent Authority;

Provided further that no registration to a promoter shall be renewed for a period of more than two years;

(2) No application for renewal of the certificate of registration made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

6. Upon lapse of the registration or on cancellation of the registration under this Act, the Authority, may consult the Appropriate Government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any other manner, as the case maybe. Obligation of Authority consequent upon lapse of or cancellation of registration

7. (1) The Authority may, on receipt of a complaint in this behalf or suo-moto or on the recommendation of the Competent Authority, revoke the registration granted under section 4, after being satisfied that— Revocation of registration

(a) the promoter makes willful default in doing anything required of him by or under this Act or the rules or the regulations made thereunder;

(b)the promoter violates any of the terms or conditions of the agreement entered into with the Competent Authority;

Provided that the Authority shall revoke the registration under this clause only on a recommendation received from the Competent

Authority in this behalf;

(c) the promoter is involved in any kind of unfair practice or irregularities.

Explanation.-- For the purposes of this clause, the term “unfair practice means” a practice which, for the purpose of promoting the sale or development of any immovable property adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:-

(A) the practice of making any statement, whether orally or writing or by visible representation which,-

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

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

(iii) makes a false or misleading representation concerning the services;

(B) permits the publication of any advertisement whether in any newspaper or otherwise of services that are not intended to be offered.

(2) The registration granted to the promoter under section 4 shall not be revoked unless the Authority has given to the promoter not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the certificate, and has considered any cause shown by the promoter within the period of that notice against the proposed revocation.

(3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.

(4) Upon the revocation of the registration, the Authority,-

(a) shall debar the promoter from accessing its website by deleting his details and inscribing his name in the list of defaulters on its website and also inform the other Real Estate Regulatory Authorities in other States about such cancellation;

(b) may recommend to the competent authority to facilitate the balance of the development works to be carried out in accordance with the provisions of section 6;

(c) may, to protect the interest of prospective buyers or in the public interest, issue such directions as it may deem necessary.

(5) The Authority shall cause to be published in its web site the names and other details of promoter whose registration has been revoked under this section.

CHAPTER III

OBLIGATIONS OF PROMOTER AND ALLOTTEE

8. (1) The promoter shall, upon receiving his Login-Id and password under sub-section (9) of section 4 and the Authority’s permission to access its
- Obligation of promoter

website, enter all details of the proposed project in all the fields as required, and the information and documents as specified in sub-section (2) as self declared.

(2) The information and documents referred to in sub-section (1) amongst other documents as may be required, include,-

- (a) details of the sanctions accorded by the Competent Authority;
- (b) details of the registration granted by the Authority;
- (c) full and true disclosure of his enterprise details including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies, local authority etc.) and registration details under the law registered;
- (d) a full and true disclosure of the nature of his title to the land on which the proposed project is developed or intended to be developed;
- (e) If such land is owned by another person, the agreement with the owner of land for the development of the proposed project.

Explanation.- For the purposes of this sub-section, documents relating to the title to the land shall be same as submitted before the Competent Authority;

- (f) details of all encumbrances on such land, including any rights, title, interest or claim of any party in or over such land;
- (g) fortnightly up-to-date list of bookings on the basis of the agreement to sell entered with them;
- (h) proforma of the agreements proposed to be signed with the allottees;
- (i) the number and the carpet area of each unit or part of unit for sale in the project;
- (j) the layout plan of the proposed project or the phase thereof, and also the layout plan of the whole project as sanctioned by the competent authority;
- (k) the plan of development works to be executed in the proposed project;
- (l) the names and addresses of his real estate agents, if any, for the proposed project, as and when appointed by the promoter;
- (m) the names and addresses of the architect, structural engineer, if any and other persons concerned with the development of the proposed project; and
- (n) such other information and documents as may be prescribed by rules or regulations under this Act.

9. (1) No promoter shall issue or publish an advertisement or prospectus, or invite any member of the public to buy or book in such projects to be developed or take advances or deposits without obtaining a copy of certificate of registration with the Authority.

(2) No promoter shall issue advertisement or prospectus without first filing a copy of such advertisement or prospectus in the office of the Authority.

Issuing of advertisement or prospectus inviting bookings, advance or deposit

(3) The advertisement or prospectus issued or published after complying with the provisions of sub-section (1) shall mention prominently the website address of the Authority wherein all details of the registered project have been entered and include such other matters which are incidental thereto.

10. Where any person makes an advance or a deposit on the basis of the information contained in the advertisement or prospectus and sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as may be determined by the Authority:
- Provided** that if the person affected by such incorrect, false statement contained in the advertisement or prospectus, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed.
- Obligations of Promoter regarding veracity of the advertisement or prospectus
11. (1) Notwithstanding anything contained in any other law for the time being in force, a promoter shall not accept any sum of money as an advance payment or deposit, from a person without first entering into a written agreement for sale with such person
- (2) The agreement referred to in sub-section (1) shall be in such form as may be prescribed and specify the particulars of development of the project including the construction of building and apartments, along with specifications and external development, works, the dates and the manner by which payments towards the cost of the plot, building or apartment are to be made by the allottees and the date on which the possession of the plot, building or apartment is to be handed over and such other particulars, as may be prescribed:
- Provided** that the agreement shall be required after allotment where only a refundable application fee is collected from the applicant before draw of lots for specific allotment.
- No deposit or advance to be taken by promoter without first entering into an agreement of sale
12. (1) The promoter, upon entering into an agreement to sell with the allottee for transfer of the ownership of the immovable property, shall be responsible to make available or cause to be made available to the allottee, the following information, namely:-
- Obligations of promoter towards allottees
- (a) site plans along with structural designs and specifications, approved by the local authority, by display at the site or such other place as may be specified by the regulations made by the Authority;
- (b) the stage wise time schedule of completion of the project;
- (c) the time schedule for connecting the proposed project with the various Municipal services as applicable;
- Explanation.*-For the purposes of this clause, the term “municipal services” means the services offered to the population of cities, settlements and villages by enterprises of the communal service system to meet the material-domestic needs of the population such as water, electricity, gas and other services etc.;
- (d) the certificate signed by the owner, architect and structural engineer regarding the compliance of statutory provisions related to the relevant revenue, planning, local, structural safety, and fire safety laws or requirements;

(e) all such details pertaining to the development of the proposed project which may be required to ensure transparency in the development of the proposed project;

(2) The promoter shall-

- (a) be responsible to furnish immediately on payment of reasonable charges as may be specified by the regulations made by the Authority, true copies of the aforesaid documents, to the allottees individually or collectively;
- (b) obtain a completion certificate from the relevant local authority as per local laws or other laws in force and to make it available to the allottees individually or to the association of allottees, as the case may be;
- (c) also prepare and maintain all such other details as may be specified from time to time by the regulations made by the Authority;
- (d) be responsible for providing and maintaining the essential services, on reasonable charges as may be specified by the regulations made by the Authority, till the taking over of the maintenance of the project by the association of the allottees;
- (e) take steps for the formation of an association or society or co-operative Society, as the case may be, of the allottees, under the laws applicable or, as soon as the majority of members for the formation of the same are in place;
- (f) not cancel the allotment unless he has sufficient cause to cancel it in terms of the agreement of sale and if he so cancels the agreement of sale, he shall give due notice to the other parties to the agreement of sale and tender a refund of the amount collected along with interest at such rates as may be prescribed:

Provided that the allottee may approach the Authority for relief if he is aggrieved by such cancellation and thinks the cancellation of the allotment by the promoter is unilateral and without any genuine cause and is not in accordance with the terms of the agreement of sale.

13. (1) The proposed project shall be developed and completed by the promoter in accordance with the plans and structural designs and specifications as approved by the Competent Authorities. Adherence to approved plans and project specifications by the promoter
- (2) In case any major structural defect or deficiency in such development or services incidental thereto is brought to the notice of the promoter within a period of one year by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge within reasonable time and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive Appropriate damages or compensation as may be determined by the Authority.

14. (1) After obtaining the occupation certificate or completion certificate, as the case may be, the promoter shall submit a copy thereof to the Authority and thereafter take all necessary steps to execute a registered conveyance deed in favour of the allottee thereby transferring the title in the immovable property along with the undivided proportionate title in the common areas simultaneously with the handing over of the possession of the immovable property and the other title documents pertaining thereto. Transfer of title
- (2) After obtaining the occupation certificate or completion certificate, as the case may be and handing over physical possession to the allottees in terms of this section, it shall be the responsibility of the promoter to hand over the originals of the title documents and the plans to the association of the allottees incorporated as per the local laws.
15. (1) If the promoter fails to complete or is unable to give possession of a plot or building,- Return of amount
- (a) in accordance with the terms of the agreement or, as the case may be, duly completed by the date specified therein or any further date agreed to by the parties; or
- (b) due to discontinuance of his business as a developer on account of suspension or revocation of his license under this Act or for any other reason,
- he shall be liable on demand, without prejudice to any other remedy to which he may be liable, to return the amount received by him in respect of that plot, building, with interest at such rate as may be prescribed in this behalf and also penalty as may be determined by the Authority;
- (2) The interest referred to in sub-section (1) shall be chargeable from the date the promoter received the amount or any part thereof, till the date the amount or part thereof and interest thereon is returned and such amount and interest shall be a charge on the land and other structures thereon and be recoverable as arrears of land revenue.
16. (1) Every allottee who has entered into an agreement of sale to take a plot or a building under section 11 shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement and shall after taking possession of the plot or building under section 14 pay at the proper time and place, the proportionate share of the registration charges, municipal taxes, water and electricity charges, ground rent, if any, and other charges, in accordance with such agreement. Obligations of allottees
- (2) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (1).
- (3) The obligations of the allottee under sub-section (1) and the liability towards interest under sub-section (2) may be reduced when mutually agreed to between the promoter and such allottee.

CHAPTER IV

THE REAL ESTATE REGULATORY AUTHORITY

17. (1) The Appropriate Government may, by notification in the Official Gazette, establish an Authority to be known as the Real Estate Regulatory Authority to exercise the powers conferred on it and to perform the functions assigned to it under this Act. Establishment and incorporation of Real Estate Regulatory Authority
- (2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.
18. The Authority shall consist of a Chairperson and not less than two whole time Members to be appointed by the Appropriate Government. Composition of Authority
19. The Chairperson and other Members of the Authority shall be appointed by the Appropriate Government on the recommendations of the Selection Committee and in such manner as may be prescribed, from amongst persons having adequate knowledge of and professional experience (for at least twenty years in case of the Chairperson and fifteen years in the case of the Members) in urban development, housing, real estate development, infrastructure, economics, planning, law, commerce, accountancy, industry, management, social service, public affairs or administration: Qualifications of Chairperson and Members of Authority
- 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 Secretary to the Central Government or any equivalent post in the Central Government or any equivalent post in the 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 to the State Government or any equivalent post in the State Government or any equivalent post in the Central Government.
20. (1) The Chairperson and Members shall hold office for a term not exceeding three years from the date on which they enters upon his office, or until the attains the age of sixty five years, whichever is earlier. Term of office of Chairperson and Members
- (2) Before appointing any person as a Chairperson or Member, the Appropriate Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.
21. (1) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed and shall not be varied to their disadvantage during their tenure. Salary and allowances payable to Chairperson and Members
- (2) Notwithstanding anything contained in sub-sections (1) and (2) of section 20, the Chairperson or a member, as the case may be, may, -
- (a) relinquish his office by giving in writing to the Appropriate Government notice of not less than three months; or
- (b) be removed from his office in accordance with the provisions of

section 23.

(3) A vacancy caused to the office of the Chairperson or any other member, as the case may be, shall be filled up within a period of three months from the date on which such vacancy occurs.

22. The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such administrative powers and functions of the Authority as may be prescribed. Administrative Powers of Chairperson
23. (1) The Appropriate Government may, by order, remove from office the Chairperson or other Members, if the Chairperson or such other Member, as the case may be,- Removal of Chairperson and Members from office in certain circumstances
- (a) has been adjudged as insolvent; or
 - (b) has been convicted of an offence, involving moral turpitude; or
 - (c) has become physically or mentally incapable of acting as a Member; or
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest.
- (2) No such Chairperson or Member shall be removed from his office under clause (c), (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.
24. (1) The Chairperson or a Member, ceasing to hold office as such, shall not, without previous approval of the Appropriate Government,— Restrictions on Chairperson or Members on employment after cessation of office
- (a) accept any employment in, or connected with, the management or administration of, any person which has been associated with any work under the Act from the date on which they cease to hold office:
- Provided** that nothing contained in this clause shall apply to any employment under the Appropriate Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in section 617 of the Companies Act, 1956;
- (b) act, for or on behalf of any person or organization in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;
 - (c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public;
 - (d) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.
- (2) The Chairperson and Members shall not communicate or reveal to any

person any matter which has been brought under his consideration or known to him while acting as such.

25. (1) The Appropriate Government may, in consultation with the Authority appoint such officers and employees as it considers necessary for the efficient discharge of their functions under this Act who would discharge their functions under the general superintendence of the Chairperson. Officers and other employees of Authority
- (2) The salary and allowances payable to and the other conditions of service of the officers and of the employees of the Authority appointed under sub-section (1) shall be such as may be prescribed.
26. (1) The Authority shall meet at such places and times, and shall follow such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations made by the Authority. Meetings of Authority
- (2) The Chairperson or, if for any reason, is unable to attend a meeting of the Authority, the senior-most Member present shall preside at the meeting.
- (3) All questions which come up before any meeting of the Authority shall be decided by a majority of the Members present and voting and, in the event of an equality of votes, the Chairperson or the Member presiding shall have the right to exercise a second or casting vote.
27. No act or proceeding of the Authority shall be invalid merely by reason of-
- (a) any vacancy in, or any defect in the constitution of the Authority; or
- (b) any defect in the appointment of a person acting as a member of the Authority; or
- (c) any irregularity in the procedure of the Authority not affecting the merits of the case. Vacancies etc. not to invalidate proceeding of Authority
28. The Authority shall take all possible measures for the growth and promotion of a healthy, transparent, efficient and competitive real estate sector and in particular take the following measures, namely:- Functions of Authority for planned land development and promotion of real estate sector
- (a) make recommendations to the Appropriate Government or the Competent Authority as the case may be, on,-
- (i) protection of interest of the allottees;
- (ii) measures to improve the processes and procedures for clearance and sanction of plans and development projects, and issuance of completion certificates from the Competent Authority to effectively implement the social and economic planning in the real estate sector;
- (b) encourage construction of environmentally sustainable and affordable housing, promote standardization and use of Appropriate construction materials, fixtures, fittings and construction techniques.
29. (1) Subject to the provisions of this Act, the Authority shall take all possible measures for the growth and promotion of a transparent, efficient and competitive real estate sector. Functions of Authority
- (2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Authority shall, *inter alia*, include-
- (a) to render advice to the Appropriate Government in matters relating

to the development of real estate sector;

(b) to publish and maintain a website of records of all real estate projects for which application for registration has been received, as database, with such details as may be prescribed including information provided in the application for which registration has either been granted or cancelled, as the case may be;

(c) to act as the nodal agency to co-ordinate all efforts of the Appropriate Government regarding the development of the real estate sector;

(d) to fix for each areas under its jurisdiction the standard charges through policy or guidelines, or regulations to be levied on the allottees by the promoter or the association of allottees, as the case may be;

(e) to ensure compliance of the obligations cast upon the promoters and the allottees under this Act and the rules and regulations made there under;

(f) to make an inquiry to be made into compliance of its regulations or orders or directions made in exercise of its powers under the Act;

(g) to enter the names of promoters as defaulters on the website on the cancellation of the proposed project or the details of the project or promoters who have been penalized under the Act;

(h) to make recommendations to the Appropriate Government on matters connected with the objects of this Act;

(i) to perform such other functions as may be entrusted to the Authority by the Appropriate Government as may be necessary to carry out the provisions of the Act.

- | | |
|---|--|
| <p>30. (1) The Authority shall have powers to set up a dispute resolution mechanism for an amicable settlement of disputes between the promoter and the allottees or the allottees themselves through regulations;</p> <p>(2) The Authority shall have the powers to appoint, if it deems necessary, an officer or officers with such qualification and experience in adjudication, arbitration, mediation or conciliation or other such operational areas, who are skilled in dispute resolution, for the settlement of disputes as provided under sub-section (1).</p> | <p>Powers of Authority for amicable settlement of disputes</p> |
| <p>31. Where the Authority considers it expedient to do so, on a complaint or suo-moto, it may, by order in writing and recording reasons therefore-</p> <p>(a) call upon any promoter at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require;</p> <p>(b) appoint one or more persons to make an inquiry in relation to the affairs of any promoter, allottee or any authority concerned;</p> | <p>Powers of Authority to call for information, conduct Investigations, etc.</p> |
| <p>32. The Authority may, for the purpose discharge of its functions under section 28, section 29 and section 30, issue such directions from time to time to the promoters and allottees, as it may consider necessary and such directions shall be binding on all concerned.</p> | <p>Powers of Authority to Issue directions</p> |
| <p>33. (1) The Authority shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made by the State</p> | <p>Powers of Authority</p> |

Government, the Authority shall have powers to regulate its own procedure.

(2) The Authority shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:

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- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or directing it *ex-parte*; and
- (g) any other matter which may be prescribed.

(3) Where in the course of proceeding before the Authority an issue is raised relating to agreement, action, omission, practice or procedure that-

- (a) has an appreciable prevention, restriction or distortion of competition in connection with the development of a real estate project;
- (b) has agreement, practices or procedures effecting prevention or restriction of competition;
- (c) has effect of market power of monopoly situation being abused for affecting interest of allottees adversely,

then the Authority, may, *suo-moto*, make reference in respect of such issue to the Competition Commission of India.

34. If a person fails to pay any penalty imposed on him under this Act, the Authority shall proceed to recover such penalty, in such manner as may be prescribed.
- Execution of orders of Authority

CHAPTER V

THE REAL ESTATE APPELLATE TRIBUNAL

35. The Central Government shall, by notification in the Official Gazette, establish an Appellate Tribunal to be known as the Real Estate Appellate Tribunal to-
- Establishment of Real Estate Appellate Tribunal
- (a) adjudicate any dispute---
 - (i) between a promoter and a allottee;
 - (ii) between a promoter and Authority;
 - (iii) between Appropriate Government and the Authority, except the powers to give directions under section 64;
 - (b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.
36. (1) The Appropriate Government or the Competent Authority or any person aggrieved by any direction or order or decision of the Authority may prefer an appeal to the Appellate Tribunal.
- Application for settlement of disputes and appeals to Appellate Tribunal
- (2) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or

decision made by the Authority is received by the concerned State Government or the competent authority or the aggrieved person and it shall be in such form, and accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of thirty days if it is satisfied that there was sufficient cause for not filling it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may after giving the parties an opportunity of being heard, pass such orders thereon as it thinks fit.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties and to the Authority, as the case may be.

(5) The appeal preferred under sub-section (2), shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal within a period of ninety days from the date of receipt of appeal:

Provided that where any such appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

(6) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any order or decision of the Authority, on its own motion or otherwise, call for the records relevant to disposing of such appeal and make such orders as it thinks fit.

37. (1) The Appellate Tribunal shall consist of-

- (a) a full time Chairperson;
- (b) four full time Judicial Members as the Central Government may, from time to time, notify;
- (c) at-least four full time Technical or Administrative Members.

Composition
of Appellate
Tribunal

(2) Subject to the provisions of this Act,-

- (a) the jurisdiction of the Appellate Tribunal may be exercised by Benches thereof;
- (b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with two or more Members of the Appellate Tribunal as the Chairperson of the Appellate Tribunal may deem fit:

Provided that every Bench constituted under this clause shall include at least one Judicial Member and one Technical or Administrative Member;

- (c) the Benches of the Appellate Tribunal shall ordinarily sit at Delhi and such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;
- (d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of the Appellate Tribunal from one Bench to another Bench.

Explanation.- For the purposes of this Chapter,-

- (i) "Judicial Member" means a Member of the Appellate Tribunal

appointed as such under clause (b) of sub-section (1) of section 38 and includes the Chairperson of the Appellate Tribunal;

(ii) "Technical or Administrative Member" means a Member of the Appellate Tribunal appointed as such under clause (c) of sub-section (1) of section 38.

38. (1) A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he,-
- Qualifications
for
appointment
of Chairperson
and members
- (a) in the case of Chairperson, is or has been a Judge of the Supreme Court or the Chief Justice of the High Court; and
 - (b) in the case of a Judicial Member he is, or has been a Judge of the High Court; and
 - (c) in the case of a Technical or Administrative Member he is a person who is well versed in the field of urban development, housing, real estate development, infrastructure, economics, planning, law, commerce, accountancy, industry, management, public affairs or administration and possesses experience of at least 20 years in the field or who has held the post in the Central Government or a State Government equivalent to the post of Secretary to the Government of India or an equivalent post in the Central Government or an equivalent post in the State Government.
- (2) The Chairperson or Judicial Member of the Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.
- (3) The other Technical or Administrative Members of the Appellate Tribunal shall be appointed by the Central Government on the recommendations of the Selection Committee and in such manner as may be prescribed.
39. (1) The Chairperson of the Appellate Tribunal or a member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office:
- Term of
Office of
Chairperson
and members
- Provided** that no Chairperson of the Appellate Tribunal or member of the Appellate Tribunal shall hold office as such after he has attained,---
- (a) in the case of the Chairperson of the Appellate Tribunal, the age of sixty eight years;
 - (b) in the case of a member of the Appellate Tribunal, the age of sixty-five years.
- (2) Before appointing any person as Chairperson or member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such member.
40. (1) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other members shall be such as may be prescribed and shall not be varied to their disadvantage during their tenure.
- Salary and
allowances
payable to
Chairperson
and members
- (2) Notwithstanding anything contained in sub-sections (1) and (2) the Chairperson or a member, as the case may be, may: -

- (a) relinquish his office by giving in writing to the Central Government a notice of not less than three months;
- (b) be removed from his office in accordance with the provisions of section 41.

(3) A vacancy caused to the office of the Chairperson or any other member, as the case may be, shall be filled up within a period of three months from the date on which such vacancy occurs.

41. (1) The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal who –
- (a) has been adjudged an insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the Central Government involves moral turpitude; or
 - (c) has become physically or mentally incapable of acting as the Chairperson or a Member; or
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a member; or
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

Removal of Chairperson and Member from office in certain circumstances

(2) No such Chairperson or member shall be removed from office under clause (c), (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

42. (1) The Central Government shall provide the Appellate Tribunal with such officers and employees as, it may deem fit.
- (2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.
- (3) The salary and allowances payable and the other conditions of service of the officers and employees of the Appellate Tribunal shall be such as may be prescribed.

Officers and other employees of Appellate Tribunal

43. If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Vacancies

- 5 of 1908 44. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

Powers of Tribunal

(2) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure.

- 1 of 1872 (3) The Appellate Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

- 5 of 1908 (4) The Appellate Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 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 documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or directing it *ex-parte*; and
- (h) any other matter which may be prescribed.

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(5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45. The Chairperson shall have powers of general superintendence and direction in the conduct of the affairs of Appellate Tribunal and he shall, in addition to presiding over the meetings of the Appellate Tribunal, exercise and discharge such administrative powers and functions of the Appellate Tribunal as may be prescribed.

Administrative Powers of Chairperson of Appellate Tribunal

46. (1) Every order made by the Appellate Tribunal under the Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

Orders passed by Appellate Tribunal to be executable as a Decree

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

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47. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being force, an appeal shall lie against any order, (not being an interlocutory order) of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.

Appeal to Supreme Court

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

CHAPTER VI

CENTRAL ADVISORY COUNCIL

48. (1) The Central Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Advisory Council.

Establishment of Central Advisory Council

(2) The Minister to the Government of India in charge of the Ministry of the Central Government dealing with Real Estate shall be the *ex-officio* Chairperson of the Central Advisory Council.

(3) The Central Advisory Council shall consist of representatives of the Ministry of Finance, Ministry of Industry & Commerce, Ministry of Urban Development, Ministry of Consumer Affairs, Ministry of Corporate Affairs, Ministry of Law & Justice, Planning Commission, National Housing Bank, Housing & Urban Development Corporation, two representatives of State Governments to be selected by rotation, two representatives of the Real Estate Regulatory Authorities to be selected by rotation, and any other Central Government department as notified.

(4) The Central Advisory Council shall also consist of not more than ten members to represent the interests of real estate industry, consumers, construction labourers, non-governmental organizations and academic and research bodies in the real estate sector.

49. (1) The functions of the Central Advisory Council shall be to advise the Central Government on:--
- Functions of the Central Advisory Council
- (a) on all matters concerning the implementation of this Act;
 - (b) major questions of policy as applicable to the real estate sector;
 - (c) protection of consumer interest;
 - (d) to foster the growth and development of the real estate sector;
 - (e) any other duty or function as may be assigned to it by the Central Government.
- (2) The Central Government shall have powers to prescribe by rules on the matter relating to any of the recommendations received by it from the Central Advisory Council on matters as provided under sub-section (1).

CHAPTER VII

OFFENCES AND PENALTIES

50. If any promoter willfully fails to comply with or contravenes the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to three years, or a penalty which may extend to ten per cent of the estimated cost of the real estate project, or with both.
- Punishment for non-registration under section 3
51. If any promoter contravenes any other provisions of this Act, other than that provided under Section 3, or the Rules or Regulations made thereunder, he shall be liable to a penalty which may extend to five percent of the estimated cost of the real estate project.
- Penalty for contravention of other provisions of Act
52. If any promoter, who willfully fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a minimum penalty of one lakh rupees for every day during which such default continues, which may extend to five percent of the estimated cost of the real estate project.
- Punishment for willful failure to comply with orders of Authority

53. If any promoter, who willfully fails to comply with the orders of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend to one year or with a penalty which may extend to ten percent of the estimated cost of the real estate project, or with both.

Punishment for willful failure to comply with orders of Appellate Tribunal

54. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, or was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Companies

Provided that nothing contained in this sub-section, shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section, -

- (a) "company" means any body-corporate and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm, means a partner in the firm.

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55. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also fine, may either before or after the institution of the proceeding, be compounded by the court before which such proceedings are pending.

Compounding of offences

CHAPTER VIII

FINANCE, ACCOUNTS, AUDITS AND REPORTS

56. The Central Government may, after due appropriation made by Parliament in this behalf, make to the Authority grants and loans of such sums of money as that Government may consider necessary.

Grants and loans by Central Government

57. The State Government may, after due appropriation made by State Legislature by law in this behalf, make to the Authority, grants of such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

Grants by State Government

58. (1) The Authority shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Appropriate Government in consultation with the Comptroller and Auditor General of India. Budget Accounts and Audit
- (2) The accounts of the Authority shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller of Auditor General of India.
- (3) The Comptroller and Auditor General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand and production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.
- (4) The accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Appropriate Government by the Authority and the Appropriate Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament or, as the case may be, before the State Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.
59. (1) The Authority shall prepare once in every year, in such form and at such time as may be prescribed by the Appropriate Government,- Annual report
- (a) a description of all the activities of the Authority for the previous year;
- (b) the annual accounts for the previous year; and
- (c) the programmes of work for the coming year.
- (2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament or, as the case may be, before the State Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.

CHAPTER IX

MISCELLANEOUS

60. No civil court shall have jurisdiction in respect of any matter which the Authority or the Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. Bar of Jurisdiction
61. (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder save on a complaint in writing made by the Authority or by any officer of the Authority duly authorized by it for this purpose or any officer of the Appropriate Cognizance of offences

Government.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of first class shall try any offence punishable under this Act.

62. The Central Government may give such directions, as it may deem necessary, to a State Government or, as the case may be, Union territory for carrying out all or any of the provisions of this Act and the State Government or Union territory shall comply with such directions. Power of Central Government to give directions
63. (1) If, at any time, the Appropriate Government is of the opinion,— Power of Appropriate Government to supersede Authority
- (a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or
- (b) that the Authority has persistently defaulted in complying with any direction given by the Appropriate Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or
- (c) that circumstances exist which render it necessary in the public interest so to do, the Appropriate Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:
- Provided** that before issuing any such notification, the Appropriate Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.
- (2) Upon the publication of a notification under sub-section (1) superseding the Authority,—
- (a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;
- (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and
- (c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Appropriate Government.
- (3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Appropriate Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Appropriate Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament or, as the case may be, before the State Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.

64. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy, as the Appropriate Government may give in writing to it from time to time: Powers of Appropriate Government to issue directions to Authority and obtain reports and returns
- Provided** that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.
- (2) If any dispute arises between the Appropriate Government and the Authority as to whether a question is or is not a question of policy, the decision of the Appropriate Government thereon shall be final.
- (3) The Authority shall furnish to the Appropriate Government such returns or other information with respect to its activities as the Appropriate Government may, from time to time, require.
65. (1) The Appropriate Government may, by notification, make rules for carrying out the purposes of this Act. Power of Appropriate Government to make rules
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the form and manner of making application and fee payable herewith under sub-section (1) of section 4;
 - (b) the fee for renewal of license of developer under sub-section (1) of section 5;
 - (c) the rate of interest payable under section 10, clause (f) of section (2) of section 12, sub-section (1) of section 15, sub-section (2) of section 16;
 - (d) the form and particulars of agreement under sub-section (2) of section 11;
 - (e) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other members of the Authority under sub-section (1) of section 21;
 - (f) the powers of the Chairperson under section 22;
 - (g) the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Authority under sub-section (4) of section 25;
 - (h) the functions of the Authority under clause (b) of sub-section (2) of section 29;
 - (i) any other matter under clause (g) of sub-section (2) of section 33;
 - (j) the manner of recovery of penalty by the Authority under section 34;
 - (k) the form and manner and fee for filing of appeal under sub-section

- (2) of section 36;
- (l) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other members of the Appellate Tribunal under sub-section (1) of section 40;
- (m) the salaries and allowances payable to, and the other terms and conditions of service of, the officers and employees of the Appellate Tribunal under sub-section (3) of section 42;
- (n) the powers of the Chairperson of the Appellate Tribunal under section 44;
- (o) the form to be specified in which the Authority shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts under sub-section (1) of section 58;
- (p) the form in which and time at which the Authority shall prepare an annual report under sub-section (1) of section 58;
- (q) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

66. (1) The Authority may, by notification, make regulations, after it is approved by the Appropriate Government, consistent with this Act and the rules made there-under to carry out the purposes of this Act. Power to make regulations

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:--

- (a) such other documents to be furnished by the promoter under sub-clause(vi) of clause (b) of sub-section (3) of section 4;
- (b) the information to be furnished by the promoter under sub-section (1) of section 12;
- (c) the reasonable charges to be charged by the promoter under clause (a) of sub-section (2) of section 12;
- (d) the reasonable charges to be charged by the promoter under clause (d) of sub-section (2) of section 12;
- (e) time, places and the procedure in regard to transaction of business at the meetings of the Authority under sub-section (1) of section 26;
- (f) power to set up dispute resolutions mechanism and to appoint officers under sub-section (1) and sub-section (2) of section 30;
- (g) any other matter which is required to be, or may be, specified by regulation or in respect of which provision is to be made by regulations.

45 of 1860 67. The Chairperson, Members and other officers and employees of the Authority and the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Members, etc, to be public servants

68. The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under Delegation

section 66) as it may deem necessary.

69. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. Application of other laws not barred
70. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Act to have overriding effect
71. No suit, prosecution or other legal proceedings shall lie against the Appropriate Government, the State Government or the Authority or any officer of Appropriate Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder. Protection of action taken in good faith
72. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the notifications or both Houses agree that the rule or the notifications should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation. Laying of rules
- (2) Every rule made by a State Government under this Act shall be laid as soon as may be, after it is made, before the State Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.
73. If any difficulty arises in giving effect to the provisions of this Act, the Appropriate Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty: Power to remove difficulties

Provided that no order shall be made under this section after the expiry of two years from the date of the commencement of this Act.