

**Real Estate
(Regulation and Development) Act 2016
&
Uttarakhand Real Estate (Regulation
and Development) Rules 2017**



**Uttarakhand Housing and Urban Development Authority
(UHUDA)**

www.uhuda.org.in

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UHUDA**

Uttarakhand Housing and Urban Development Authority (UHUDA)

State level Uttarakhand Housing and Urban Development Authority (UHUDA) was incepted on 5th April 2013 by Government of Uttarakhand.

The State Government has authorised UHUDA as a Regulatory Authority till the time formal Authority comes into force as per the provisions of the Act on 16 Feb, 2017

Main Powers/Functions of the UHUDA

Declaring/Notifying any area in the State as development area

Prepare Master plan/Zonal plan through Town and Country planning or through out sourcing

Prepare policy for low cost housing

Prepare guidelines for local development authorities for housing and infrastructure development works

Explore opportunity for mega projects in PPP

Acquire/collect land for residential projects either by itself or by local development authority or in PPP

Grant permission for plans in notified areas/development areas and do supervision/enforcement of projects through local development authorities

Give recommendations to the Government regarding distribution of works/determination of jurisdiction amongst LDA/ULB and Gram Panchayats for plan sanctioning and enforcement in various notified areas

review work of development authorities and town & country planning and give directions

Examine old master plan & give recommendation to the Government

Real Estate Act 2016 Timeline



Passed by the Rajya Sabha on **10th March, 2016**

Passed by Lok Sabha on **15th March, 2016.**

Assented to by the Hon'ble President on **25th March, 2016.**

Published in the Official Gazette on **26th March, 2016** for public information.

The **Uttarakhand Real Estate (Regulation and Development) Rules** was notified on **28 April, 2017**

Act come into force

**Section 2,
Sections 20 to 39,
Sections 41 to 58,
Sections 71 to 78,
Sections 81 to 92**

- Notified by the Central Government to come into effect from **1st May, 2016.**

**Sections 3 to 19,
Section 40,
Sections 59 to 70,
Sections 79 to 80**

- Are into force from **1st May 2017**

Objective of the Act

Ensure **accountability towards** Allottees and Protect their interest

Promote **good governance** which would create investor confidence

Establish **fast-track dispute resolution mechanism**

Establish **regulatory oversight mechanism** to enforce contracts

Imposing **certain responsibilities on both promoter and allottees**

Establish symmetry of **information between the promoter and allottee**

Introduce **professionalism and pan India standardization**

Infuse **transparency, ensure fair-play and reduce frauds & delays**

Real Estate Authority

Real Estate Authority

The Government shall establish an Authority to be known as the **Real Estate Regulatory Authority** to exercise the powers and to perform the functions under the Act. Presently, UHUDA is designated as Real Estate Regulatory Authority.

Authority shall consist of **a Chairperson and not less than two whole time Members** to be appointed by the Government

Main Functions of Authority for Promotion of Real Estate Sector

Protection of interest of **the Allottees, Promoter and Real estate agent**

Creation of a **single window system** for time bound project approvals and clearances

Creation of **Grievance redressal mechanism** of omission and commission of competent authorities and their officials

Encourage investment in the real estate sector

Increase financial assistance to affordable housing segment

Encourage construction of **environmentally sustainable and affordable** housing

Encourage **grading of projects including grading of promoters**

Facilitate **amicable conciliation of disputes between the promoters and the allottees**

Facilitate digitization of land records, Property titles with title Guarantee

Functions of Authority

Register and regulate **real estate projects and real estate agents**

Publish and maintain a **website of records of all real estate projects**

Maintain a **database of Promoters as defaulters** including the project details, registration with reasons therefor

Maintain a **database of real estate agents** including those whose registration has been rejected or revoked

Fix **standard fees to be levied** on the Allottees, Promoter and Real estate agent

Ensure compliance of the obligations of Promoters, Allottees and Real estate agents

Ensure **compliance of orders or directions**

Powers of Real Estate Authority

On a complaint or *suo motu* it may, by order in writing call upon any promoter or allottee or real estate agent at any time to furnish in writing such information or explanation relating to its affairs

It shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters

a) **The discovery and production of books of account and other documents**

b) **Summoning and enforcing the attendance** of persons and examining them on oath

c) **Issuing commissions for the examination** of witnesses or documents

d) **Any other matter which may be prescribed**

Order, restrain any promoter, allottee or real estate agent from carrying on such activity which is contravention of the Act without giving notice to such party

Issue directions to the promoters or allottees or real estate agents,

Impose penalty or interest

Real Estate Appellate Tribunal

Real Estate Appellate Tribunal

The Government shall establish an Appellate Tribunal to be known as the Real Estate Appellate Tribunal

Appellate Tribunal shall consist of a **Chairperson to be appointed in consultation with the Hon'ble Chief Justice of the State and not less than two whole time Members to be appointed by the Government**

Powers of Appellate Tribunal

It 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**

It shall have power to **Regulate its own procedure**

It shall also **not be bound by the rules of evidence** contained in the **Indian Evidence Act, 1872**

It shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters

(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

(d) issuing commissions for the examinations of witnesses or documents

(e) reviewing its decisions

(f) dismissing an application for default or directing it *ex parte*

(h) any other matter which may be prescribed

All proceedings before 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**

**Prior registration of real estate
project with Real Estate Regulatory
Authority (Section 3(1))**

No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase any plot, apartment or building in any real estate project or part of it, in any planning area-

- ***Without registering the real estate project with the Real Estate Regulatory Authority***

The projects that are **ongoing on the date of commencement of the Act** and for which **the completion certificate has not been issued,**

- **The promoter shall have to register the said project within a period of 3 months from 1 May, 2017**

Where the **real estate project** is to be developed in **phases;**

- **Every such phase shall be considered a stand-alone real estate project,**
- **The promoter shall obtain registration under this Act for each phase separately.**

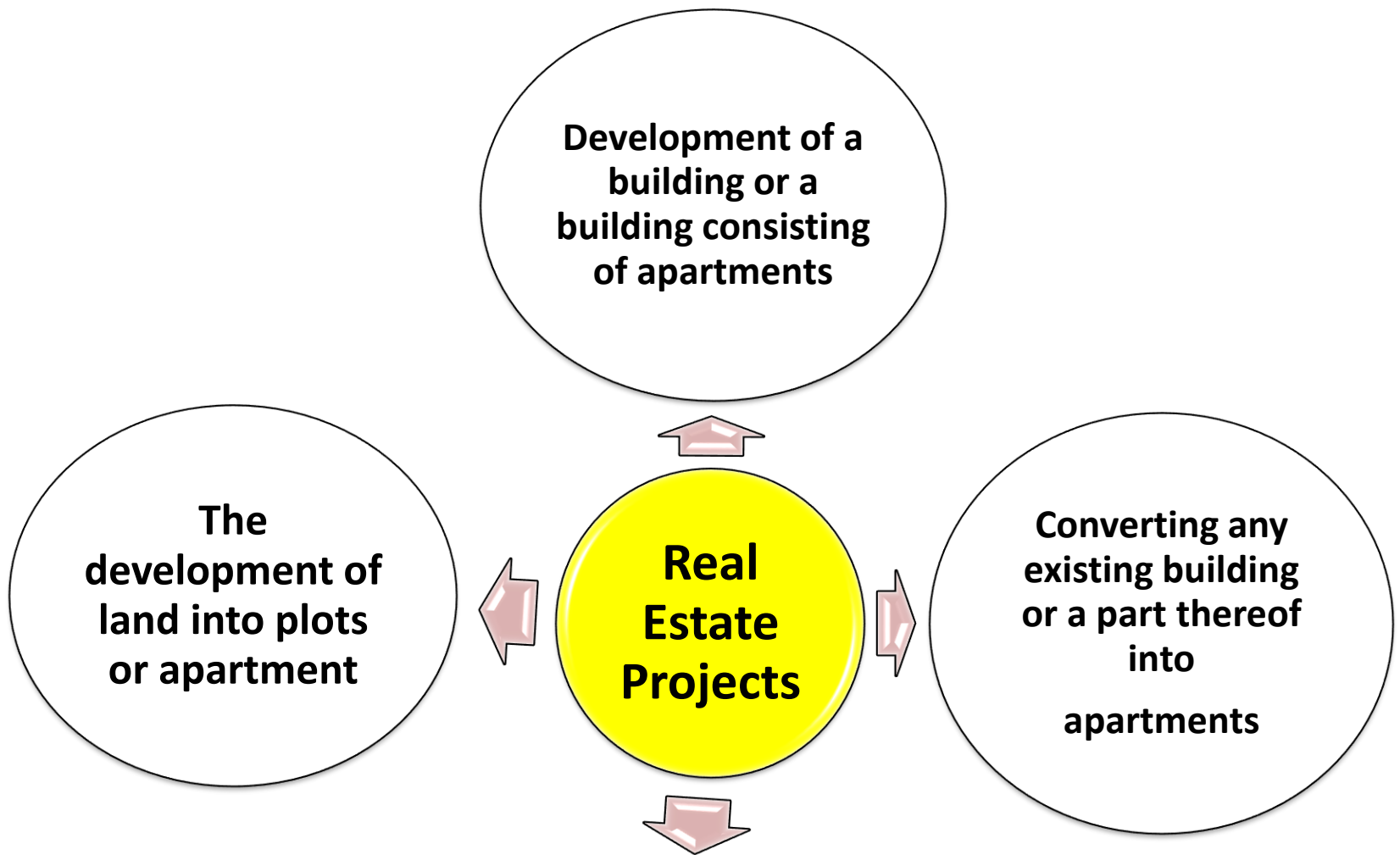
No Registration Required:

- Where the area of land proposed to be developed does not **exceed 500 square meters**

Or

- The number of apartments proposed to be developed does not exceed **eight inclusive of all phases**
- Where the promoter has **received completion certificate** for a real estate project prior to commencement of this Act
- For the purpose of **renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building**, under the real estate project.

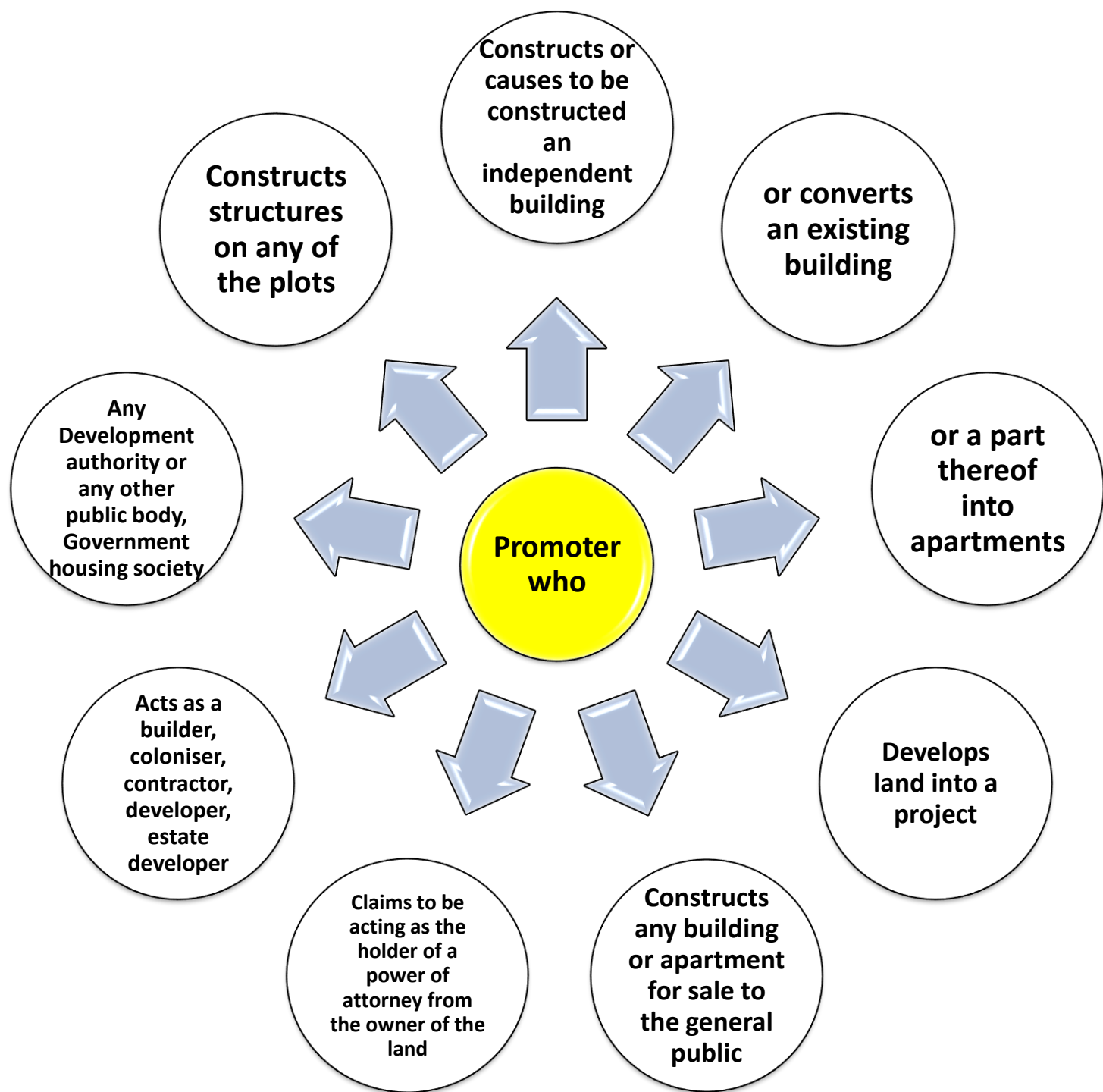
**What is Real Estate Project
?
(Clause 2 , sub clause (zn))**



the purpose of selling all or some of the said apartments or plots or building Includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto

**Who is Promoters
?**

(Clause 2 , sub clause (zk))



Who is Real Estate Agents

?

(Clause 2 , sub clause (zm))

**Negotiates or acts on behalf of
one person in a transaction of transfer of his plot,
apartment or building in a real estate project, by
way of sale, with another person**

**Includes property
dealers, brokers,
middlemen by
whatever name
called**

**Real
Estate
Agents
who**

**Receives
Remuneration or fees or
any other charges for his
services (transfer or sale)
whether as commission
or
otherwise**

**Introduces, through any medium, prospective
buyers and sellers to each other for negotiation
for sale or purchase of plot Apartment or
building**

**Different Application Forms
in Uttarakhand Real Estate
(Regulation and Development) Rules
2017**

Application	Application Title
Form A	Application for registration of project
Form B	Declaration, supported by an affidavit, which shall be signed By the promoter or any person authorized by the promoter
Form C	Registration certificate of project
Form D	Intimation of rejection of application for registration of project / Rejection of application for extension of registration of project / Revocation of registration of project
Form E	Application for extension of registration of project
Form F	Certificate for extension of registration of project
Form G	Application for registration of real estate agent
Form H	Registration certificate of real estate agent
Form I	Intimation of rejection of application for registration of real estate agent / rejection of application for renewal of registration of real estate agent / revocation of registration of real estate agent
Form J	Application for renewal of registration of real estate agent
Form K	Certificate for renewal of registration of real estate agent
Form L	Appeal to appellate tribunal
Form M	Complaint to regulatory authority
Form N	Application to adjudicating officer (<u>claim for compensation</u>)

Application for Registration of Real Estate Projects

Every promoter shall make an application for registration of the real estate project

- In Form “A”, in triplicate ([Page 38 of Rules](#))

An affidavit, declaration which shall be signed by the promoter

- In [Form “B”](#) ([Page 41 of Rules](#))

Additional Disclosure by Promoters of Ongoing projects

Ongoing Projects

Projects that are ongoing on the **date of commencement of this Act and for which completion certificate has not been issued** shall make an application in accordance to Form “A” to the Authority within a period of three months for registration of the project with the
Authority

- The original sanctioned plan, layout plan and specifications, subsequent modifications carried out, if any, existing sanctioned plan, layout plan and specifications
- The total amount of money collected from the allottees, total amount of money used and total amount of balance money lying with the promoter
- Status of the project **(extent of development carried out till date and the extent of development pending)**,
- Original time period disclosed to the allottee for completion of the project at the time of sale,
- Delay and the time period within which he undertakes to complete the pending project and **(this information shall be certified by an engineer, an architect and a chartered accountant in practice)**.
- Size of the apartment based **on Carpet area** (even if earlier sold on any other basis such as super area, super built up area, built up area etc)
- In case of plotted development- **the area of the plot being sold to the allottees as per the layout plan.**
- Deposit seventy percent of the amounts **already realized from the allottees, which have not been utilized for construction of the project and the land cost in the separate bank account.**

(Pls refer sub-clause (d) of clause (1) of sub section (2) of Section 4, which shall be used for the purposes specified therein)

Registration Fee for Real Estate Projects

The promoter shall pay a registration fee at the time of application by way of a **demand draft or a Bankers cheque drawn on any scheduled bank** or through online payment

Category	Land Area	Fee	Maximum
Group Housing Project	= 1000 sqm	Rs 10/sqm	Not more than Rs 5.00 lakh
	> 1000 sqm	Rs 10/sqm	
Mixed Development Project	= 1000 sqm	Rs 15/Sqm	Not more than Rs 7.00 lakh
	> 1000 sqm	Rs 15/Sqm	
Commercial Project	= 1000 sqm	Rs 20/Sqm	Not more than Rs 10.00 lakh
	> 1000 sqm	Rs 25/Sqm	
Plotted Development projects	-	Rs 5/sqm	Not more than Rs 2.00 lakh

Grant or Rejection of Registration of the Project

The Authority shall issue a **Registration certificate** with a **Registration number** in **Form “C” (Pg 43)** within **30 days of the submission of the application** up-to the **Time Period declared by the promoters in Affidavit**

In case of **Rejection** of the application in **Form ‘D’ (Pg 44)**;

The authority may grant an opportunity to the applicant to rectify the defects in the application within one month from the date of order

Extension of Registration

The registration may be extended on an application in **Form “E” (Pg 45)** in triplicate within **Three months** prior to the expiry of the **Registration granted**

The application shall be accompanied with a DD or a bankers cheque for an amount **Twice the registration fees** along with **An explanatory note for reasons of delay** and **The need for extension of registration** along with documents **supporting such reasons**

The extension of registration shall not exceed beyond the period of **1 Year**.

Extension of registration in **Form “F” (Pg 46)**

Rejection the Authority in **Form “D” (Pg 44)**

Extension of registration due to force majeure (*shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature*) **shall be done without Fee.**

Revocation of Registration of the project

The Authority may

on receipt of a complaint

or

***suo motu* in this behalf**

or

**on the recommendation of the competent
authority**

Revoke the Registration granted of the project as
per **Section 7** of the [Act.](#)

Application for Registration of Real Estate Agents

**Every Real Estate
Agent shall make an
application for
registration**

- In Form “G”, in triplicate [Page 48 of the Rules](#)

The Documents to be submitted

Brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies etc.)

The particulars of registration (whether proprietorship, societies, partnership, companies etc.) including the bye-laws, Memorandum of Association, Articles of Association etc.

if it is an individual

Name, address, contact details and photograph of the real estate agent

In case of other entities

Names, addresses, contact details and photographs of the partners, directors etc.

The authenticated copy of the PAN card and address proof of the place of the business

Registration Fee

The Real Estate Agents shall pay a registration fee at the time of application by way of a **demand draft or a Bankers cheque drawn on any scheduled bank**

Category	Fee
Individual	Rs 25,000.00 (Twenty Five Thousand)
Other than an Individual	Rs 2,50,000.00 (Two lakh fifty thousand)

Grant or Rejection of Registration of the Real Estate Agents

Registration certificate with a Registration number in Form “H” (Pg 50) within 30 days of the submission of the application

In case of **Rejection** of the application the Authority shall inform the applicant in **Form ‘I’ (Pg 52)**;

The authority may grant an opportunity to the applicant to rectify the defects within one month from the date of order

The Registration shall be valid for a period **8 years**

Renewal of Registration of Real Estate Agent

The registration may be renewed on an application in **Form 'J'** ([Pg 53](#)); in triplicate, must be submitted **3 Months** prior to the **expiry of the registration granted**

DD or a bankers cheque for an amount of

- Rs 5000 for Individual
- Rs 50,000 for other than Individual

Shall also submit all the updated documents as submitted for Registration

In case of extension of registration - **Form "K"** ([Pg 55](#))

In case of rejection - **Form "I"** ([Pg 52](#))

The renewal shall be valid for a period of 5 Years .

Functions and Duties of Promoters in Brief

- The promoter shall, create his web page on the website of the Authority and enter all details of the proposed project
- Make available all information the sanctioned plans, layout plans, along with specifications to allottee at the time of booking
- The stage wise time schedule of completion of the project
- Compensate allottee in case of any loss or damage by reason of any incorrect, false statement in advertisement or prospectus
- Can not accept a sum more than 10 % of the cost of the apartment, plot, or building as an advance
- Can not change sanctioned plans, layout plans and specifications, nature of the fixtures, fittings, amenities and common areas etc without proper consent of allottees.
- Rectify defect in workmanship, quality or provision of services or any other obligations if brought to the notice within in period on 5 years after handing over the possession
- Can not transfer or assign his majority rights and liabilities to any third party without obtaining prior written consent from two-third allottees and Authority
- Obligations of promoter regarding insurance of real estate project
- Handing over physical possession to allottees with in 3 Months of occupancy certificate
- Return of amount and compensation if fails to complete or is unable to give possession of an apartment, plot or building on date

Brief Functions of Real Estate Agents

- **Not facilitate the sale or purchase** of any plot, apartment or building which is not Registered
- **Maintain and preserve books of account**, records and documents in accordance to the provisions of Income Tax Act, 1961.
- **Do not falsely represents** that the services are of a particular standard or grade;
- **Do not publish any advertisement** for services which are not intended to be offered
- **Facilitate the possession of all the information and documents** to the allottee at the time of booking of any plot, apartment or building

OFFENCES, PENALTIES AND ADJUDICATION

Punishment for non-registration of Real Estate Project (S 59)

- Penalty of **10%** of the estimated cost of the real estate project
- Punishable with imprisonment for a term which may extend up to **3 years** with **10 % fine** if does not comply with the orders, decisions or directions issued for Registration

Penalty for contravention of section 4 (Application Form) (S 60)

- Penalty which may extend up to **5 %** of the estimate cost of the real estate project

Penalty for contravention of other provisions of this Act (S 61)

- Penalty which may extend up to **5%** of the estimated cost of the real estate project

Penalty for non-registration and contravention by Real Estate Agents (S 62)

- **Rs 10,000/ for every day during which** such default continues, which may cumulatively extend up to **5 % of the cost of plot, apartment or buildings** of the real estate project, for which the sale or purchase has been facilitated

Penalty for failure to comply with orders of Authority by promoter (S 63)

- Penalty for every day during which such default continues up to **5%** of the estimated cost of the real estate project

Penalty for failure to comply with orders of Appellate -Tribunal by promoter (S 64)

- Punishable with imprisonment for a term which may extend up to **3 years** or with **10% fine** for every day during which such default continues, of the estimated cost of the real estate project or **with both**

OFFENCES, PENALTIES AND ADJUDICATION

Penalty for failure to comply with orders of Authority by real estate agent. (S 65)

- **Penalty for every day during which such default continues which may cumulatively extend up to 5% of the estimated cost of plot, apartment or building for which the sale or purchase has been facilitated**

Penalty for failure to comply with orders of Appellate Tribunal by real estate agent (S 66)

- **Punishable with imprisonment up to one year or with 10 % fine for every day of the estimated cost of plot, apartment or building of the real estate project or with Both**

Penalty for failure to comply with orders of Authority by allottee (S 67)

- **Penalty for the period during which such default continues, which may cumulatively extend up to 5% of the plot, apartment or building cost.**

Penalty for failure to comply with orders of Appellate Tribunal by allottee (S 67)

- **Punishable with imprisonment for a term which may extend up to one year or with 10% fine for every day during which such default continues of the plot, apartment or building cost or with both.**

OFFENCES, PENALTIES AND ADJUDICATION

Offences by companies

- 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

- Where an offence 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 person shall also be deemed to be guilty and punished accordingly

Compounding of offences

The Court shall, for the purposes of compounding any offence **punishable with imprisonment under the Act**, accept an amount as specified

Compounding of offences

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

Filing of complaint with the Regulatory Authority and Adjudicating Officer

<p>Filing of complaint with the Authority for any Violation of the Act, Rules & Regulations</p>	<p>As per Form 'M' (Pg 60) in duplicate accompanied by a fee of Rs 1000/- in the form of a DD drawn or bankers cheque drawn on a nationalized bank</p>
<p>Filing a complaint with the adjudicating officer for Compensation</p>	<p>Any aggrieved person may file a complaint in Form 'N' (Pg 61) with the adjudicating officer for compensation under</p> <ul style="list-style-type: none">Section 12 (Obligations of the Promoter regarding veracity of the advertisement of prospectus)Section 14 (Adherence to sanctioned plans and projects specifications by the promoters)Section 18 (Return of amount and compensation)Section 19 (Rights and Duties of Allottees)

Thank You