



# Frequently Asked Questions

(Source: MahaRERA)

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# Topics

- Ongoing Projects
- Promoter
- Land
- Registration
- Marketing & Booking
- Real Estate Agents
- Conveyance
- Finance
- Planning
- Legal
- Complaints & Penalty



# Ongoing Projects

## **Will ongoing Project have to stop sales or construction till receiving the Registration?**

Ans: At the end of ninety days from the date of notification of Section 3 of the Act, the promoter of an ongoing project shall not advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building, unless he registers the project.

- **If the promoter needs to change the plans of an on-going project post registration, will he need the consent of the pre-registration purchasers?**

Ans: MahaRERA protects the interest of all the Allottees; including those who have executed an agreement before the project is registered under its provisions Hence, if the promoter wants to change the plans post registration, then consent of all pre-registration allottees shall be required as well.

- **From 1<sup>st</sup> May which format of Agreement will have to followed?**

Ans: New Model Agreement prescribed by RERA



# Promoter

- **How does the Act Impact Joint Promoters or joint Venture Agreements or cases of joint development with land owner on revenue share basis or area share basis, where landlord and promoter are two different parties but both are beneficiaries of sale of project?**

Ans: The Act makes both the Promoters and the landlord or any such parties which are beneficiary of a sale of a project and receive payments from allottees as Co-Promoters and hence liable to adhere to the provisions of the Act and Rules and Regulations made there under.

- **How does the promoter make an application for registration?**

Ans: MahaRERA shall launch online application for registration from 1st May 2017. All promoters shall make their applications online through this IT solution, filling the details in the requisite forms, uploading the required documents and paying the necessary fees.



# Land

- **What if an adjoining land is purchased by the promoter? Can he continue with same registration?**

Ans: No, it has to be separately registered if the said adjoining land was not a part of the project which has been registered.

- **If Land is bought on deferred payment terms, can the amount be withdrawn from the Separate Account?**

Ans: Yes. Even interest on Land can be debited.



# Registration

- **If a real estate project has land area more than 500 sqmts but containing less than 8 apartments. Does it still need to be registered?**

Ans : Yes. Every real estate project which has land area more than 500 sqmts or has more than 8 apartments needs to be registered.

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Ans : Yes. Every real estate project which has land area more than 500 sqmts or has more than 8 apartments needs to be registered.

- **Is there some fee, in addition to the fees prescribed in the Rules, to be charged from promoters, real estate agents and complainants for the MahaRERA website uploading and online services?**

Ans : Yes. It has been detailed in the MahaRERA Order available on the MahaRERA website.



# Registration

- **Is it mandatory for the promoter to obtain permissions for the real estate project before applying for registration to MahaRERA?**

Ans: Yes, the layout of the real estate project has to be approved. However, the promoter may include some buildings in his application of registration where apartments are proposed and the approvals, like commencement certificate, are pending. Approval for the apartment must be obtained before the agreement for sale is signed between the promoter and buyer, regarding the said apartment.

- **How will a flat buyer know, if the real estate project is duly registered under MahaRERA?**

Ans: The MahaRERA website would display all the registered projects.

- **Is it compulsory for the promoter to register the project immediately after he gets sanction/ commencement certificate?**

Ans: Promoter has to register the project before he starts any form of advertising, marketing, booking, selling, offer for selling or inviting people to purchase plots, apartment or buildings.



# Registration

- **Can promoter change the completion date for ongoing projects while registering?**

Ans: Yes, while registering project, promoter needs to give revised date of completion which should be commensurate with the amount of development completed.

- **If an ongoing project is registered under MahaRERA, then will the Act be applicable for the entire project or will it be applicable only to units sold after registration?**

Ans: Registration is of the Project/Phase and hence the provisions of the Act are applicable to all units of the Project/Phase.

- **There is a provision for deemed registration of a real estate project in case the Regulatory Authority does not respond to the application. How will the promoter receive ID & password?**

Ans: In accordance with the Act, MahaRERA shall within a period of seven days of the deemed registration, provide registration number, login Id and password.





- **What if Part OC is received for the project: is it exempt from registration?**

Ans: No

- **Estimated Cost should be submitted only for area for which approvals/plans cleared as on date of registration of project or it should also include costs even for the proposed future expected area to be generated? (Bearing in mind the pros and cons for the figures depending solely on estimated costs)**

Ans: Estimated cost of the whole project that has been put up for registration has to be indicated while applying for registration.

- **Registration: Are various certificates (Architect, Engineer, and CA) required at the time of registration?**

Ans: Please refer to the Forms 1, 2 and 3 of Maharashtra Real Estate Regulatory Authority (General) Regulations 2017.



# Marketing

- **Does advertisement include solicitation by emails and sms? Is issuance of prospectus considered to be a case of 'advertisement'?**

Ans: As per section 2(b), which defines 'advertisement', any medium adopted in soliciting for sale would be covered under the said definition, including sms and emails. Prospectus, which is intended for sale of apartment in real estate project, will also be covered.

- **Can advertisement be issued for a new project after 1st May, 2017 without registering the said project?**

Ans: No. The advertisement issued after 1st May 2017 must carry the MahaRERA Registration Number of the project.

- **Is it permissible to sell parking to allottees?**

Ans: The position of parking is as follows;

- a) Open Parking Area: This has been clearly included in the definition of "Common Areas" which need to be conveyed to the Association of Allottees after Occupancy Certificate is received. Hence, sale or allotment of Open Parking Areas by the Promoter is not permissible
- b) Covered Parking as defined in the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 is permitted to be sold.
- c) Garage as defined in the Act is permitted to be sold.

- **Sometimes buyer is ready and gives undertaking that he is ok to give money beyond 10% however does not want to register. Should it be allowed?**

Ans: No. Section 13(1) of the Act prohibits the promoter from taking more than 10% of the cost of apartment without entering into a written agreement for sale, duly registered

# Agent

- **Whether registration of real estate agents would be project specific, location specific or individual specific?**

Ans: Real estate agents have to get registered with MahaRERA either as an individual or as "other than individual". Promoters while applying for registration of any real estate project will have to indicate the names of registered real estate agents who will be working as agents in the said project. Names of such agents will be displayed along with other project specifications on the MahaRERA website, upon registration of the project.

- **Referral bookings: Existing customers referring to others for buying the flat in same project or other project of same developer: will they be treated as Real Estate Agent?**

Ans: Yes, if it is against a consideration. Real Estate Agent is clearly defined in section 2(zm) of the Act

- **For Foreign brokers registration and advertisement outside India, will same rule apply as in India ?**

Ans: Yes, if it pertains to a registered project under MahaRERA.



# Complaints & Penalty

- **Can a complainant approach both the Regulatory Authority / adjudicating officer and the consumer forums for the same disputes?**

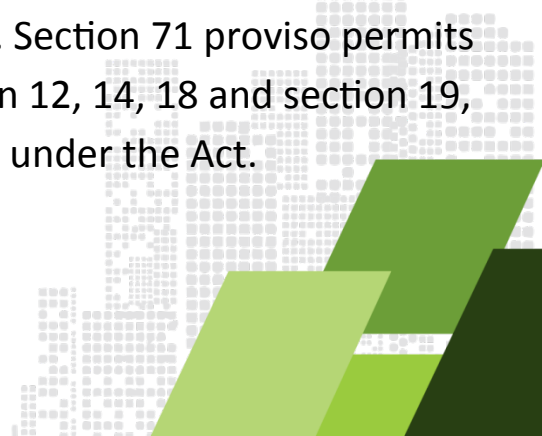
Ans: An aggrieved person can only approach one of the two forums for redressal of his grievance.

- **Is there any time limit prescribed for disposal of complaints?**

Ans: Section 29 of the Act provides that complaints should be disposed off as expeditiously as possible but not later than sixty days from the date of filing the same. However, where it cannot be disposed of during the said period, the Real Estate Regulatory Authority is required to record its reasons for the same.

- **If the buyer wants to file a complaint in Consumer Court, is there any bar under the Act?**

Ans: No. As per section 79 of the Act, civil courts are barred from entertaining disputes (suits or proceedings) in respect of matters which Real Estate Regulatory Authority or the adjudicating officer or the Appellate Tribunal is empowered under the Act to determine. However, the consumer forums (National, State or District) have not been barred from the ambit of the Act. Section 71 proviso permits the complainant to withdraw his complaint as regards matters under section 12, 14, 18 and section 19, from the consumer forum and file it with the adjudicating officer appointed under the Act.



# Complaints & Penalty

- **Will such interest payment by the promoter to the buyer be automatic or the buyer will have to approach MahaRERA?**

Ans: The interest payment is in accordance with the model form of agreement and hence should be automatically paid. The buyer may have to file a complaint to MahaRERA if there is a grievance.

**Can an allottee who has executed agreement with the promoter prior to the on-going project getting registered with the Authority, be a complainant before MahaRERA?**

Ans: MahaRERA empowers any aggrieved person to file a complaint with respect to a registered real estate project. This will include an allottee who has an agreement executed before the project is registered with MahaRERA. However, MahaRERA will have authority to adjudicate for violations and contravention of provisions of the Real Estate (Regulation and Development) Act or rules and regulations made thereunder.



# Agent

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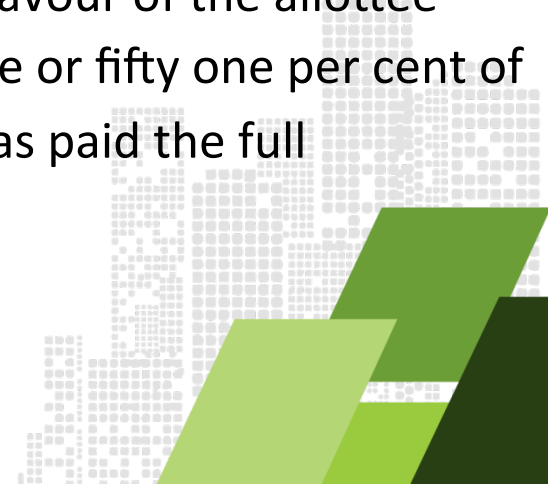
# Conveyance

- **Is there any time limit prescribed for the promoter for formation of society or any other legal entity of home buyers?**

Ans: Promoter has to enable formation of Legal Entity like Cooperative Society, Company, Association, Federation etc. within three months from the date on which fifty one per cent of the total number of Purchasers, in such a building or a wing, have booked their apartment.

- **Is there a time limit prescribed for the promoter to execute conveyance in favour of the association of buyers?**

Ans: Promoter shall execute a registered conveyance deed in favour of the allottee within three months from date of issue of occupancy certificate or fifty one per cent of the total number of Purchasers, in such a building or a wing, has paid the full consideration to the promoter, whichever is earlier.



# Planning

- **Which areas of Maharashtra are included in the Planning Area as defined in the Act?**

Ans: In accordance with notifications issued by Urban Development Department of Government of Maharashtra, MR & TP Act is applicable to all the districts of Maharashtra. Hence, all areas of Maharashtra are included in Planning Area as defined in Section 2(zh) of the Act.

- **Can the promoter change the plans of subsequent phases after registration of the 1st phase?**

Ans: The Act puts an obligation on a promoter to obtain consent of each allottee, if he wants to change the building plans for the phase that is registered. If a subsequent phase has not been registered, the promoter can change the plans of the subsequent phases without obtaining consent of the allottees from current / ongoing phases. However, if the subsequent phases are also registered, consent of allottees, of the concerned phases, would be needed as mentioned in section 14 of the Act

- **The promoter can hand over the common amenities only after completing subsequent phases. What should he commit to the customer for the registered phase?**

Ans: A promoter should meticulously plan the buildings of the registered phase & common areas and then declare the individual date of handing over possession of the building & common areas. Each phase along with the development works shall have to be completed and handed over to the allottee within the time frame defined by the promoter, during registration, for that phase of the project.

- **If due to a change in government policy, the promoter is entitled to additional FSI etc., can the promoter build additional floors in a registered ongoing project where initially those floors were not planned?**

Ans: Yes, but consent of allottees would be needed as mentioned in section 14 of the Act.

- **What should the promoter do in case the particular brand of fixtures and fittings as mentioned in the specifications are not available in the market since the production of that type is stopped by the supplier? Will the promoter still be liable in such case? And what in case fixture/fittings do not give guarantee for more than five years.**

Ans: In accordance with section 14 of the Act, the promoter should take previous consent of the concerned allottee.



# Finance

- **Is insurance of the project compulsory? What are the provisions regarding Insurance?**

Ans: Promoter has to obtain all such insurance as notified by the State Government. So insurance will be compulsory only after the Notification is issued by the State Government. The Act says that the State Government can prescribe various types of insurance including but not limited to

- a) Title of the land and building as a part of the real estate project; and
- b) Construction of the real estate project.

The promoter is liable to pay the insurance premium before transferring the same to the allottee / association of allottees. The documents related to insurance will have to be handed over to the association of allottees when the same is formed

- **Can project finance taken by promoters from financial institutions be withdrawn from designated 70% account?**

Ans: Yes, if this is declared at the time of registration and subject to provisions of Section 4 of the Act and Maharashtra Real Estate (Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 made there under. However, the money withdrawn should be utilized towards construction expenses of the project, on priority.

# Finance

- **In case of joint development with land owner on revenue share basis or area share basis, whether land owner's component could be withdrawn from designated account of 70%?**

Ans: The Act makes both the Promoters and the land owner or any such parties which are beneficiary of a sale of a project and receive payments from allottees, as Co-Promoters and hence liable to adhere to the provisions of the Act and Rules and Regulations made there under. The withdrawal of money would be subject to provisions of Section 4 of the Act and the Maharashtra Real Estate (Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 made there under.

- **Whether money collected from allottees towards stamp duty, registration, share money for society, deposits for maintenance, corpus funds, infrastructure charges, parking charges etc., are required to be deposited in the designated bank account (70 %)?**

Ans: Yes, since these are part of the project cost

- **Does developer need to submit the certificates to Banker or retain with him?**

Ans: The original certificates have to be retained by the promoter because the same are required to be verified and audited by the statutory auditor of the promoter's company at the end of every financial year. Copies may also have to be submitted to the concerned bank, if demanded by them



# Finance

- **Separate Bank Account: can escrow account opened with the Bank from whom loans are availed, be treated as Separate Bank Account for a MahaRERA registered project.**

Ans: No. A separate bank account needs to be opened in accordance with the provisions of the Act and rules made there under.

- **Can separate account be more than one since at times there might be multiple lenders in same project (building wise lender) though developer might register the project at one go.**

Ans: No. There should be one designated bank account for every registered project or registered phase of a project.



- **Will such interest payment by the promoter to the buyer be automatic or the buyer will have to approach MahaRERA?**

Ans: The interest payment is in accordance with the model form of agreement and hence should be automatically paid. The buyer may have to file a complaint to MahaRERA if there is a grievance.



# Legal

- **Whether MahaRERA recognizes Maharashtra Ownership Flats Act and Apartment Ownership Act?**

Ans: Yes, the said Acts have not been repealed. However, In case of inconsistent provisions, the provisions of the Central Act shall prevail.



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