

Madhya Pradesh Prakoshtha Swamitva Rules, 2019

MADHYA PRADESH

India

Madhya Pradesh Prakoshtha Swamitva Rules, 2019

Rule

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Madhya Pradesh Prakoshtha Swamitva Rules, 2019 Published vide Notification No. F.No.F 23-8/201 1/32-1, dated 25.10.2019 Last Updated 27th January, 2020 F.No.F 23-8/201 1/32-1. - The exercise of powers conferred by sub-section (1) of section 42 of the Madhya Pradesh Prakoshtha Swamitva Adhiniyam, 2000 (No. of 2001). The State Government hereby makes the following Rules, the same having been previously published in the Madhya Pradesh Gazette (Extraordinary) dated 4th October 2018 as required by sub-section (1) of Section 42 of the said Act.

1. Short title, Application and commencement.

(1) These rules may be called the Madhya Pradesh Prakoshtha Swamitva Rules, 2019. (2) These rules shall apply within the limits of all Municipal Corporation, Municipal Council, Nagar Parishad and notified Planning Area as per section 13 of MPNTGNA, 1973. (3) These rules shall come into force with effect from the date of publication in the "Madhya Pradesh Rajpatra".

2. Definition.

- In these rules, unless the context otherwise requires, - (a) "Act" means the Madhya Pradesh Prakoshtha Swamitva Adhiniyam, 2000; (b) "Allotee" in relation to an apartment, means the person "to whom such apartment has been allotted, sold or otherwise transferred by the promoter; (c) "Apartment", (which may be called block, chamber, dwelling unit flat, lot, premises, suite, tenement, unit or by any other name), means a separate and self-contained part of any property, including one or more rooms or enclosed spaces, located on one or more floors (or any part or parts thereof) in building or in a plot of land, used or intended to be used for residence, office, shops, showrooms or godowns or for carrying on any business, industry, occupation, profession or trade, or for any other type of independent use, and with a direct exit to a public street,

road or highway or to a common area leading to such street, road or highway and includes any garage or room (whether or not adjacent to the building in which such apartment is located) provided by the promoter for the use by the owner of such apartment for parking any vehicle or, as the case may be, for the resident of any domestic servant employed in such apartment: Provided that the number and sizes of the apartments in a building shall be in conformity with municipal regulations: Provided further that if a basement, cellar, garage, room, shop or storage space is sold separately from any apartment it shall be treated as an independent apartment and not as part of any other apartment or of the common areas and facilities; Explanation. - Notwithstanding that provision is made for sanitary washing, bathing or other conveniences as common to two or more apartments, the apartments shall be deemed to be separate and self contained; (d) "Apartment number" means the number, letter or combination thereof, designating an apartment; (e) "Apartment owner" means the person or persons owning an apartment and an undivided interest in the common areas and facilities appurtenant to such apartment in the percentage specified in the deed of apartment; Explanation. - A member of a co-operative housing society of the tenant co-partnership type, of an allottee under a hire purchase agreement, will be deemed to be an owner entitled to membership of the association. (f) "Appellate Authority" means the Collector of the district appointed by the State Government under section 16 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959). (g) "Association" means an association consisting of all the apartment owners in a building acting as a group in accordance with the bye-laws, if two or more buildings are grouped together by the promoter in the deeds of apartments, a single association shall be formed for all the apartments, in the building so grouped. Membership will be extended to allottees under a hire purchase agreement. Association membership will be extended to the promoter and to person in occupation, whether under a tenancy, lease, licence from the owner or otherwise, but they will not be entitled to become a member of the board or to have any voting rights in matters concerning ownership of apartments or disposition of property; (h) "Board" means the board of management of an association elected by its members from among the apartment owners under the bye-laws; (i) "Building" means a building constructed on any land containing four or more apartments, or two or more buildings with a total of four or more apartments or any existing building converted into apartments, and includes a building containing two apartments in respect of which a declaration has been made under the provision to Section 2; (j) "Bye-laws" means the Bye-laws of Madhya Pradesh Apartment Owner's Association made under these rules; (k) "Common areas and facilities" in relation to a building means all parts of the building or the land on which it is located and all easements, rights and appurtenances belonging to the land or the building, which are neither in the exclusive possession of an apartment owner in terms of his deed of apartment, nor are handed over or intended to be handed over to the local authority or other public service agency. This will include the limited common areas and facilities; (l) "Common expenses means" - (i) all sums lawfully assessed against the apartment owners by the association for meeting the expenses of administration, maintenance, repair or replacement of the common areas and facilities; (ii) expenses, declared by the provisions of this Act or by the bye-laws or agreed upon by the association, as common expenses; (iii) Government and municipal taxes including group rent and property tax, which is not assessed separately for each apartment; (m) "Common profits" means the balance of all income, rent profits and revenues from the common areas and facilities, remaining after the deduction of the common expenses; (n) "Competent Authority" means the Sub Divisional Officer (Revenue) of the area appointed under the provisions of Madhya Pradesh Land Revenue

Code, 1959 (No. 20 of 1959). (o) "Declaration" means the instrument to be executed and got registered in the prescribed form and includes the amended declaration. (p) "Deed of apartment" means the deed of apartment referred to section 14. (q) "Form" means the form appended to these rules. (r) "Joint Family" means a Hindu undivided family and, in the case of other persons a group the members of which or by custom joint in possession or residence; (s) "Land" means a portion of the surface of the earth, comprising the ground or soil and everything under it or over it, and things which are attached to the earth (such as buildings, structures and trees; things which are permanently fastened to the each or to thing attached to the earth, easements, rights and appurtenances belonging to them and benefits arising out of them and includes the site of villages, town and cities; (t) "Limited common areas and facilities" means those common areas and facilities which are designated in writing by the promoter before the allotment, sale or other transfer of any apartment, as reserve for use of certain apartments to the exclusion of the other apartments; (u) "Local authority" means a municipal corporation, municipal council or an authority for any other area so notified by Government; (v) "Majority" or "majority of apartment owners" means the apartment owners with fifty one per cent, or more of the votes in accordant with the percentages assigned in the deeds of apartments for voting purposes; (w) "Manager" means the manager of an association of apartment owners appointed under the bye-laws; (x) "Market Value" means the value of land/house assessed according to guidelines issued by the Collector under the Madhya Pradesh Bajar Mulya Margdarshak Siddhanton Ka Banaya Jana Tatha Unka Punrikshan Niyam, 2000 made under the Indian Stamp Act, 1899 (No. 2 of 1899); (y) "Percentage of undivided interest" means the ratio of the built up area of the apartment to the total builtup area of all apartments of the building. (z) "Person" includes company, firm, co-operative society, joint family and an incorporated body of persons; (za) "Prescribed" means prescribed by rules made by the government under the Act. (zb) "Promoter" means the person who constructs or causes to be constructed 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 assigns. Where the person who constructs or converts a building and the person who sells are different person, the term includes both of them. Any development authority and any other public body so notified by the Government are deemed to be promoters in respect of the allottees in buildings constructed by them or placed at their disposal by Government. Explanation. - A person who Acts as described above will be deemed a promoter, even if:-(a) he styles himself as a builder, colonizer, contractor, develop estate promoter or by any other name; or (b) he claims to be acting as the holders of a power of attorney the owner of the land on which the building is constructed or any other person; (zc) "Property" means the land, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, and includes every species of right and interest in land which a person can have to the exclusion of other persons, such as possession, use and enjoyment free from interference, right of disposition, franchises and hereditaments. (zd) "Section" means a section of the Act.

3. Declaration of purchaser or lessees.

(1) Under section 2 and 9 of the Act, each apartment owner shall file certified copy of declaration in Form-A in the office of competent authority within three months from the date of notification of these rules or from the date of acquiring apartment from an apartment owner by gift, exchange,

purchase or otherwise or taking lease of apartment, whichever is later.(2)The declaration shall be signed by the apartment owner and verified in the presence of a magistrate or any other person competent to administer oath.

4. Ownership and common facilities of apartments.

- The percentage of undivided interest of each apartment in a building parts of which are put to non residential uses, if permitted by the concerned Authority, shall be increased to 50% of basic interest as determined for resident use. However the voting rights shall remain unchanged.

5. Sub lease and its breach.

- Under sub-section (3) of section J 12 of the Act, for the breach of the terms and conditions of any lease or sub lease, the defaulting apartment owner shall pay the composition fee as per prescribed scales under concerned law for the time being enforce upon such leases.

6. Deed of Apartment.

- Under section 14 of the Act, whenever any allotment, sale or other transfer of any apartment is made by the promoter to the allottee, both, shall as first party and second party, respectively execute a Deed of Apartment in prescribed Form-B within three months, from the date of notification of these rules or from the date of such allotment, sale or other transfer whichever is later or in the extended period by the Competent Authority or Government.

7. Enforcement of Transfer.

- Under section 15 of the Act, on the failure of the promoter to execute the deed of apartment within the time stated in sub- section (1), the allottee under sub section (2),(3) and (4), may make an application to the competent authority in prescribed Form-C for a certificate to be produced before the concern registration officer for enforcing the registration of the transfer.

8. Registration of Deed of Apartment.

- In all registration offices, a book called Register of Deed or Apartments for the purpose of sub section (3) of section 17 of the Act, be kept in Form-D and an index relating thereto shall be kept in prescribed Form-E.

9. Formation of association.

(1)Under section 18 of the Act, the promoter shall make an application in prescribed memorandum Form-F to the competent authority within three months of one third of the apartments being allotted, sold or otherwise transferred for the registration of association, after obtaining occupation certificate for the building with the v, persons who have taken apartments as members.(2)Under

sub-section 1 of section 21 of the Act, the Bye- Laws of the association of apartment owners is annexed hereto as Schedule-I.

10. Powers and duties of competent authority.

(1)The competent authority, shall have the power to perform duties as provided in section 34 and in other sections of the Act.(2)In discharging his functions under the Act, the competent authority will have the powers of a Civil Court under the Code of Civil Procedure, 1908 (No. 5 of 1908), while trying a suit, in respect of the matters specified in sub-section (2) of section 34 of the Act.(3)Competent authority shall work under the general guidance, superintendence and control of the State Government.

11. Appellate Authority.

(1)Any person aggrieved by any order of the competent authority under the Act shall made appeal within thirty days from the date of communication of order in prescribed Form-G to appellate authority.(2)The appellate authority, after giving an opportunity to be heard to the parties and to the competent authority, may pass such order as deemed fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing. The order of the appellate authority shall be final unless revised by the State Government.(3)In discharging its functions, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 (No. 5 of 1908) of a Civil Court while deciding an appeal.

12. Removal of doubts.

- For the removal of doubts, it is hereby declared that the provisions of the Transfer of Property Act, 1882, shall in so far as they are not inconsistent with the provisions of this Act apply to the transfer of any apartment together with the percentage of undivided interest in the common areas and facilities appurtenant to such apartment, made by the apartment owner, whether such transfer is made by sale, lease mortgage, exchange, gift or otherwise, as they apply to the transfer of any immovable property.

13. Application of other laws not barred.

- The provisions of these rules shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force;

14. Power to remove difficulties.

- If any difficulty arises in the interpretation of these rules, the same shall be referred to the State Government and its decision thereon shall be final.

Form-A(See sub rule (1) of Rule 3)Declaration

1. Shri/Smt.....Son of/Daughter of/Wife ofaged.....years solemnly declare that I am the first/present owner of Apartment No.....on thefloor of the building now on the construction/ already constructed called.....premises, situated at Door No.....(Street name).....in the City/Town/Village of.....of.....in the District of.....

2. I derived title to the said apartment by a Sale Deed Bearing No executed betweenand myself on.....

3. I hereby declare that I, Shri/Smt.....my heirs.....executors, administrators and assigns and the said apartment referred to in paragraph I of the Deed, shall hereafter be subject to the provisions of the M.P. Prakoshtha Swamitva Rules, 2018 and I further declare that I shall comply strictly with the covenants, conditions and restrictions set forth in the Deed and with the Bye-laws forming part thereof and annexed thereto.....and with the administrative rules and regulations adopted pursuant to such bye-laws (as either of the same may be lawfully amended from time to time) as in the Deed of Apartment.

4. Solemnly affirmed/sworn at..... aforesaid, the.....day of.....

.....Declared By.....Before MeForm-B(See Rule 6)Deed of ApartmentContents of Deed of Apartment to be Made by the sole owner or all owners submitting The Property To The Provisions Of The M.P. Prakoshtha Swamitva Adhiniyam, 2000Part-I (Description of Party)This deed is being executed between the Promoter.....hereinafter referred as First Party andThe Allottee.....hereinafter referred as the Second Party of this deed.Part-II (Description of the Land)

1. Details of the Land -

(a)Town Survey Number/Revenue Survey umber :(b)Door Number :(c)Street Name :(d)Village Name :(e)City Name :

2. Description of the Boundaries of the Site: Bounded on the -

(a)North by :(b)South by:(c)East by:(d)West by;

3. Details of Lease-hold land (only if not freehold) -

(a)Name of the Lessor :(b)Name of the Lessee :(c)Terms of the Lease :(d)Lease Rents :(e)Details as to how the Lessee entitled to lease hold the land:

4. Details of the Apartment -

(a)Apartment Number :(b)Name of the Apartment:(c)Details of the approval of the Local Body/Planning Authority:(Area : No. of Rooms and Dimension immediate common area)(d)Details of individual flat:(e)Postal address of the property :

5. Certified copy of the floor plan of the building :

(Annex with the deed)

6. Description of the Building :

Forms

SI. No.	Floor	Identifiable No. of	undivided share	Plinth area square	Used as approved	Principal Material used
1.	Basemen	-	-	Specify	Residential	
2.	Ground Floor	001 002		Specify	Specify	
3.	First	101 102 103	-	Specify	Specify	
4.	2nd Floor	20 202 203	-	Specify	Specify	
5.	3rd Floor	Specify	-	-	-	
6.	Other Floors	Specify	-	-	-	

(Mention separately for each building)(Value of the property, Value of the Apartment, Value of the Flat)

7. Details of Common areas 8b facility (CAF) 8b restricted common area 8b facility (RCAF) floor wise-

SI. No.(1)	Floor(2)	Description(3)	Plinth area inSq.mt.(4)	Percentage of interest of the apartment ownerin the common areas and facilities and in the common	RCAF
			Total	CAF	
1.	Basement				

- Specify like
Corridor, Stair
2. Ground Floor Specify
 3. First Floor Specify
 4. Other Floors Specify

Note. - As per Section 6 of the Act, the undivided share is calculated on the basis of the plinth area of the flat in relation to the total plinth area of the buildings.

8. Details of Amenities -

SL No.(1)	DESCRIPTION(2)	Plinth area in Sq.Mt.(3)	Percentage of interest of the apartment owner in each amenity(4)	Remarks(5)
1.	Air-Conditioning Plant			
2.	Watchman Quarters			
3.	Servant-maid Quarters			
4.	Electrical Cabin			
5.	Transformer Room			
6.	Incinerator			
7.	Water Tank			
8.	Telephone Booth			
9.	Meter Room			
10.	Pump House			
11.	Bath and Water Closet			
12.	Open balconies			
13.	Co-operative Society			
14.	Office			
15.	Sports Room			
16.	swimming of Pool			

9. Eligible percentage of votes of each apartment owner-

SI.No.(1)	Floor(2)	Identifiable No.of the flat(3)	Eligible percentage of vote
1.	Basement	Specify	Specify
2.	Ground Floor	001002003 Others specify	Specify

- | | | | |
|----|--------------------|----------------|---------|
| 3. | First Floor | 101102103 | Specify |
| 4. | Other than specify | Others specify | Specify |

10. That, the right title and interest of each owner of the apartment in the general common areas and facilities listed in paragraph and their proportionate share in the profits and common expenses in the said general common areas and facilities as well as the proportionate representation for voting purposes in the meeting of the Association of Apartment Owners of the (mention name of the apartment).....Apartment each shall be in the proportion as mentioned above.

11. That, the right title and interest of each owner of an apartment located on each of the ground and.....upper floors in the restricted common areas and facilities located in the respective floors and listed as above, and their proportionate share in the profit and common expenses in the said restricted common area and facilities as well as the proportionate representation for voting purposes with respect to the said restricted common areas and facilities in the meeting of the Association of Apartment Owners of the.....Apartment shall be in proportion as mentioned above.

12. That, the proportionate representation for voting purpose ® provided hereof may be limited in accordance with the provisions of the bye-laws annexed hereto in Schedule-I,

13. That, the percentage of undivided interest in the common areas and facilities appertaining to the apartmentare not encumbered in any manner whatsoever on the each apartment. Date of this Declaration.....

14. That, the Administration of..... Apartment consisting as aforesaid of the building and parcel of land described in this Deed shall be in accordance with the provisions of this Deed and with the provisions of the bye- laws which are made a part of this Deed and are annexed hereto.

15. That, as appears above a plan of Apartment Ownership is hereby constituted under and subject to the provisions of the Act, so that the apartments of ground/ andupper floors may be conveyed and registered as individual properties capable of independent use on account of each having its own exit to a common area and facility of the building, each apartment of ground/ and upper floors may be conveyed and registered

as individual properties capable of independent use on account of each having its own exit to a common area and facility of the building, each apartment owner having an exclusive and particular right, title and interest over his respective apartment and in addition the specified undivided interest in the common areas and facilities and/or restricted common areas and facilities.

16. That, so long as the owner, own one or more apartments, the owner shall be subject to the provisions of this Deed and of the Annexure.....attached hereto and the owner covenant to take no action which will adversely affect the rights of the Association of Apartment Owners with respect to assurances against latent defects in the building or other rights, assigned to the Association by reason of the establishment of the apartment.

17. That, the general and/or restricted common areas and facilities shall remain undivided and no owner shall bring any action for partition or division thereof.

18. That, the percentage of the undivided interest in the general and/or restricted common areas and facilities established herein shall not be changed except with the unanimous consent of all the apartment owners.

19. That, the undivided interest in the general and/or restricted common areas and facilities shall not be separated from the apartment to which it appertains and shall be deemed conveyed or encumbered with the apartment even though such interest is not expressly mentioned or described in the conveyance or other instrument.

20. That, each apartment owner shall comply with the provisions of this Deed (the bye-laws, decisions and resolutions of the Association of Apartment Owners or its representative) and failure to comply with any such provisions, decisions or resolutions, shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

21. That, no Apartment Owner of an Apartment may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the General and/or restricted common areas and facilities or by the abandonment of his Apartment.

22. That, All sums assessed by the Association but unpaid for the share of the common expenses chargeable to any apartment shall of the common expenses chargeable to any apartment shall constitute a charge on such Apartment to all other charges except only Charge, if any, on the apartment, for payment of Government or Municipal taxes or both and all sums unpaid on a first mortgage of the Apartment.

23. That, all present or future owners, tenants, future tenants or any other person that might use the facilities of the building in any manner are subject to the provisions of this Deed and that the mere acquisition or rental of any of the Apartments of the building or the mere act of occupancy of any of the said Apartment shall signify that the provisions of this Deed are accepted and ratified.

24. That, the apartment owners of the respective Apartment shall have the absolute right to lease such Apartment or give it on lease provided that said lease is made subject to the covenants and restrictions contained in the deed of apartment and further subject to the bye laws annexed hereto.

25. That, if the property subject to the plan of Apartment ownership is totally or substantially damaged or destroyed, the repair, reconstruction or disposition of the property shall be as provided by the Act.

26. That, where an Apartment is sold by a mortgage in exercise of his powers of sale under an English Mortgage or by a Court in execution of a decree in a suit brought by a mortgage against the owner of such Apartment, then neither the mortgagee nor the purchaser who derive title to the Apartment at such sale, or his successors or assigns shall be liable for assessments by the Association which become due prior to the acquisition of title by such acquirer, it being understood, however that the above shall not be constructed to prevent the Association of Apartment Owners from filing and claiming charge for such assessments and enforcing the same as provided by-law and that such charge shall be subordinate to such mortgage.

27. That, in a voluntary conveyance of an Apartment the grantee of the apartment shall be jointly and severally liable with the grantor for all unpaid assessments by the Association of Apartment Owners against the latter for his share of the common expenses upto the time of the grant ^ or conveyance without prejudice to the grantee s right to recover from the owner the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Manager or Board of Managers of the Associations, as the case may be, setting forth- the amount of the unpaid assessments against the owner due to the Association and such grantee shall not be liable for, nor shall the apartment conveyed be subject to a charge for any unpaid assessments made by the Association of Apartment Owners against the owner in excess of the amount therein, set forth.

28. That, the Manager or Board of Managers of the Association shall obtain and continue in effect blanket property, insurance in form and amounts satisfactory to mortgages holding first mortgagee covering apartments but without prejudice to the right of the owner of an apartment to obtain individual apartment insurance.

29. That, insurance premium for any blanket insurance coverage shall be a common expense to be paid by monthly. Assessments levied by the Association of Apartment owners and that such payment shall be held in a separate account for the association and used solely for the payment of the blanket property insurance premiums as such premiums become due.

In Witness Where of Shri/Smt.....has hereto set his hand this.....20.....Signed And Delivered BY Shri/Smt.....in the presence of..... has the day of before me Form-C(See Rule 7)Memorandum Of Registration For Owner To, Competent Authority,.....I/We wish to get registered my/our apartment and details are as below:(1)Name of executing party of the building.....(2)Place of residence(3)Situation of property.....(4)Apartment No. floor of the building and name.....(5)Nature of deed (i.e. declaration or deed of apartment) and consideration.....(6)Date of Execution(7)Date of Registration.....(8)Serial No. volume and page.....(9)Remarks.....Date :Signature of apartment owner/ Transferee / Sub-Lessee Form - D(See Rule 8)Register Of Declarations And Deeds Of Apartments(1)Particulars of apartment Scheme :Name of Scheme..... Location of Scheme (road etc.)..... City.....Postal Index..... District(2)Particulars of builder/Promoter :Name.....Address.....(3)Revenue particulars of Scheme :Area.....H.B. No.....Rect.....No Khasra No.....(4)Index of apartment as shown in the plan annexed :Block.....Floor.....Apartment No.....Type.....(5)Registration Office, Tehsil, District, in which the declaration and deed of apartment are regularized

Sr no.	Date of application	Name of the apartment owner	Address	date of declaration	Date of Registration	Percentage of undivided common	Date of deed of apartment	Date of apartment	Price of Registration of
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Form - E(See Rule 8)Index Register Of Apartments(1)Particulars of apartment Scheme :Name of Scheme Location of Scheme (road etc.)..... City.....Postal Index.....District(2)Particulars of builder/Promoter :Name.....Address.....(3)Revenue particulars of Scheme :Area.....H.B. NoRect. No.....Khasra No.....(4)Index of apartment as shown in the plan annexed :BlockFloor.....Apartment No.....Type.....(5)Registration Office, Tehsil, District, in which the declaration and deed of apartment are regularized.....

Sr. No.	Name of the executing party of the	Place of residence	Situation of property	Apartment No. floor of the building	Nature of deed (i.e. declaration	Date of Execution	Date of Registration	Serial No. volume and page	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Form - F(See sub rule (1) of Rule 9)Memorandum Of Registration For Promotor/ownerTo,Competent Authority,.....I/We wish to get registered my/our apartment as association in the form of co-operative society or company (tick any one) and details are as under :(1)Particulars of the apartment Scheme :Name of Scheme..... Location of Scheme (road etc.)..... CityPostal IndexDistrict.....(2)Particulars of builder/Promoter :Name.....Address.....(3)Revenue particulars of Scheme :AreaH.B. NoRect. No.....Khasra No(4)Index of apartment as shown in the plan annexed :Block..... Floor..... Apartment NoType(5)Particulars of apartment owner :Name.....Address(6)Percentage of undivided interest in SchemeBlock Floor.(7)Registration of apartment deed :Office of Registration.....Day Month.....Year.....(8)Registration of declaration :Office of Registration..... Day..... Month.....Year.....Signature of apartment ownerSignature of Promoter/BuilderForm-G(See sub rule (1) of Rule 11)(Memorandum of Appeal against order of Competent Authority)To,Appeal Authority,.....

1. Name of appellant.....

2. Father's Name *.....

3. Age.....

4. Postal Address.
5. Subject of the application which was rejected.....
6. Issued involved (in.....
7. Case number, Final order number and date
8. Name of competent authority who passed order
9. Date of communication of order to appellant
10. Decision of the competent authority
11. Reason for filling appeal against the order
12. Particulars of relief sought

Place :

Date: Signature of the appellant
 Or
 An agent duly authorized by
 appellant

Schedule 1

(See sub rule (2) of Rule 9) Bye-Laws Of Apartment Owners' Association Under The M.P. Prakoshtha Sawamitva Rules, 2018

Chapter I

Preliminary

1. Short title, Extent and commencement. - (1) These bye-laws may be called the Bye-laws of Madhya Pradesh Apartment Owner's Association,

(2) These extend to the whole of Madhya Pradesh for the Administration of the affairs in relation to the apartments and the properly appertaining thereto and for the management of common areas and facilities.

2. Application. - These bye-laws shall apply to all buildings having apartments in any building constructed or converted into apartment and land attached to the apartment, whether freehold or held on lease.

Explanation. - For the purpose of these bye-laws, the mere acquisition or rental or taking licence of any of the family units (hereinafter referred to as units) of the building will signify that these bye-laws are accepted, ratified and will be complied with.

3. Definitions. - In these bye-laws, unless the context otherwise requires,-

(a)'Act' means the M.P. Prakoshtha Swamitva Adhiniyam, 2000;(b)'Rules' means the Madhya Pradesh Prakoshtha Swamitva Rules, 2018.(c)'Association' means an Association consisting of all the apartment owners constituted by the such owners for the purpose of the condominium;(d)'Board' means a Board of managers consisting of.....Persons who shall be owners of apartments in the.....condominium;(e)'Building' means the building constructed on any land containing 4 or more apartments or two or more buildings with a total of four or more apartments or any existing building converted into apartments and includes a building containing two apartments under the provision to section 2 locatedat and known as the.....Condominium and includes the land forming part thereof;(f)'Declaration' means the declaration which the sole owner of the building or all the owners of the building have executed and registered as provided in rule 3;(g)'Majority* of owners mean those owners holding 51 per cent of the votes in accordance with the percentage assigned in the Declaration;(h) Owners' or 'apartment owners' means the person owning an apartment in the..... condominium;(i)'Section*' means a section of the Act;(j)'Unit' means a family unit in the condominium;(k)'Registrar' means the Registrar of Co-operative Societies or Registrar of Companies as the case may be.The Association of Apartment Owners in its first meeting shall adopt the Bye-Laws so framed with no variation or addition, omission, there from except with the prior approval of the Competent Authority.

4. Objects of Association. - (1) The objects of the Association under the act shall be to provide for and do all or any of the matters regarding -

(a)the manner in which the association is to be formed;(b)the composition of a board of management;(c)the election of the members of the board with provision that one-third of members of the board shall retire annually;(d)the powers and duties of the board;(e)the honorarium if any of the members of the board;(f)the method of removal from office of the members of the board;(g)method of calling meetings of the association and of the board and the number of members of the association or the board who shall constitute a quorum for such meetings;(h)election of president of the association who shall preside over the meetings of the association and of the board;(i)election of a secretary to the association, who shall keep two separate minutes book one for the board, and shall record in the respective minutes book the resolution or the board, as the case may be;(j)election of a treasure, who shall keep the financial records and books of accounts of the association;(k)maintenance, repair and replacement of the common areas and facilities and payment therefore;(l)manner of collecting from the apartment owners or any

other occupants of apartments, their share of the common expenses;(m)engagement and removal of persons employed for the administration, management, maintenance, repair and replacement of the property and the common areas and facilities;(n)regulations with regard to the use and maintenance of the apartments and common areas and facilities, with such restrictions thereon as may be necessary to prevent unreasonable interference in the use thereof by other apartment owners;(o)the regulation of transfer or partition of an apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment subject to the provisions of this Act and such terms and conditions as may be specified in the bye-laws;(p)the name of the person to receive service of process in any action against the association or the board or more than one apartment owner, together with the residence or place of business of such person;(q)the manner in which the bye-laws may be amended;(r)any matter which may be required by the Government to be provided for in the Government to be provided for in the bye-laws for the proper or better administration of the property;(s)such other matters as may are required to be, or may be provided for in the bye-laws.(2)The Association shall not act beyond the scope of its objects without duly amending the provisions of these bye-laws for the purpose.

5. Members of Association. - (1) All persons who have purchased apartments in buildings and executed a deed of apartment, shall automatically be the members of the Association and will pay the entrance fee of rupees one thousand each. Each apartment owner shall receive a copy of the bye- laws.

(2)Upon the sale, bequest or transfer of apartment, the purchaser of the apartment or the grantee or legatee or the transferee shall automatically become the member of the Association and shall be admitted as member on payment of the entrance fee of rupees one thousand each.

6. Joint Apartment Owners. - Where apartment has been purchased jointly by two or more persons, they shall be jointly entitled to the apartment and the share certificates shall be issued in their joint names, but the person whose name stands first in the share alone have the right to vote.

7. Holding one share compulsory. - Every apartment owner must hold at least one share of the Association. 1

8. Disqualification. - No apartment owner is entitled to vote on the election of members of the Board or President, Secretary, Treasurer or any other office bearer or entitled to stand for election to such office, if he is in arrears, of any sum due from him in respect of his contributions for common expenses, for more than sixty days on the last day of the year preceding the year in which the election to Board would take place.

Chapter II

Voting, Quorum And Proxies

9. Voting. - Voting shall be on percentage basis, and the percentage of the vote to which the owner is entitled is the percentage assigned to the family unit or units in the Declaration.

10. Quorum. - Except as otherwise provided in these bye-laws, the presence in person of 30 percent of members shall constitute a quorum.

11. Votes to be cast in person. - Votes shall be cast in person or proxy.

Chapter III

Administration

12. Powers and duties of Association. - The Association shall have the responsibility of administering the condominium, approving the annual budget, establishing and collecting monthly assessments and arranging for the management of the condominium in an efficient manner. Except as otherwise provided resolution of the Association shall require approval by a majority of owners casting votes in person or proxy.

13. Place of Meetings. - Meetings of the Association shall be held at a suitable place convenient to the owners as from time to time to be fixed by the Association.

14. Annual Meetings. - The first meeting of the Association shall be held on Thereafter the annual meetings of the Association shall be held on such date as the Association may decide. At such meetings Board of Management shall be elected by ballot of the apartment owners in accordance with the requirements of bye-law 23. The owners may also transact such other business of the association as may properly come before them.

15. Special Meetings. - It shall be the duty of the President to call a special meeting of apartment owners as directed by a resolution of the Board or upon a petition signed by a majority of the members and having been presented to the Secretary or at the request of the Competent Authority or as

the case may be, or any officer duly authorised by him in this behalf. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No other business shall be transacted at a special meeting except as stated in the notice without the consent of two- third owners present in person in the meeting.

16. Notice of Meetings. - It shall be the duty of the Secretary to mail or send notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held to each apartment owner at least two days but not more than seven days prior to such meetings. Notices of all such meetings shall be mailed or sent to the competent authority, or the registrar as the case may be.

17. Adjourned Meeting. - If any meeting of owners cannot be held for want of quorum the owners who are present, may adjourn the meeting to a time not less than forty-eight hours from the time to original meeting was called. If at such adjourned meeting also, no quorum is present, the owners present in person being not less than 25% of the owners or two owners whichever is higher shall form a quorum.

18. Order of Business. - The order of business at all meetings shall be as follows:-

(a)Roll Call.(b)Proof of notice of meeting or waiver notice.(c)Reading minutes of the preceding meeting.(d)Reports of officers.(e)Reports of Competent Authority or any officer authorised by them.(f)Report of Committee.(g)Election of Board.(h)Unfinished business, if any.(i)New Business.

Chapter IV

Board Of Managers

19. Management of Association. - The affairs of the association shall be governed by a Board. The Board of Management shall comprise of neither less than 4, nor more than 10 persons to be constituted and elected by the members by simple majority in the General Body Meeting.

20. Powers and Duties of Board. - The Board shall have powers and duties necessary for the administration of the affairs of Association.

21. Other Duties. - In addition to the duties imposed by these bye-laws or by resolution of the Association, the Board shall be responsible for the following :-

(a)to inspect the accounts kept by the Secretary/Treasurer and examine the registers and account books and to take steps for the recovery of all sums due to the Association,(b)to see that cash book is written up promptly and is signed daily by one of the members of the Board.(c)to specify the times at which and the manner in which the annual general meetings and special general meetings of the Association shall be held and conducted.(d)other duties, directed by the state government subject to the provisions of the act.

22. Manager. - The Board may employ for the Association a manager at a compensation determined by the Board to perform . such duties as the Board may authorise.

23. Election and term of office. - (i) The annual general meeting of the Association, to be held in the first quarter of each financial year, shall elect a Board of Managers consisting of minimum 4-10 Members including 3 office bearers, namely, the President, the Secretary and the Treasurer from Members of the Association.

(ii)The term of office of the office-bearers of the Board of Management shall be one year from the date of assuming office and they will be eligible for re-election. However, one third of members of the board shall retire annually and a person can not hold the same post continuously for more than 2 years.(iii)At the first annual meeting of the Association the term of office of two managers shall be fixed for three years and one Manager for one year. The Managers shall hold office until their successors have been elected and hold their first meeting.

24. Vacancies. - The vacancies in the Board caused by any reason other than the removal of a Manager by a vote of the Association shall be filled by vote of the majority of the remaining managers, even though they may constitute less than a quorum ; and each person so elected shall be a manager until a successor is elected at the next annual meeting of the Association.

25. Removal of Managers. - At any regular or special meeting duly called, any one or more of the managers may be removed with or without cause by a majority of apartment owners and a successor may then and there be elected to fill the vacancy thus created. Any manager whose removal have been proposed by the owners shall be given an opportunity to be heard at the meeting.

26. Organisation meeting. - The first meeting of a newly elected Board shall be held within ten days of election at such place as may be fixed by the managers at the meeting at which such managers were elected and no notice shall be necessary to the newly elected managers in order legally to constitute such meeting, provided a majority of the whole Board shall be framed.

27. Regular Meetings. - Regular meeting of the Board may be held at such time and place as shall be determined from time-to-time by a majority of managers but at least two such meetings shall be held during each year. Notice of regular meeting of the board shall be given to each manager personally or by mail atleast three days prior to the date for such meeting.

28. Special Meetings. - Special meetings may be called by President on three days' notice to each manager and notice of such meeting may be given personally to each manager. Special meetings of the Board shall be called by the President or Secretary on a written request of atleast three managers.

29. Waiver of notice. - Before any meeting of the Board and manager, may in writing waiver notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice.

30. Quorum. - In all the meetings of the "Board" 1/3rd of the total strength of the manager shall constitute a quorum. If at any meeting of the Board there be less than a quorum present the majority of those present may adjourn the meeting, the members present in person being not less than 3 shall form a quorum and the business which might have been translated at the meeting originally called may be transacted without further notice.

31. Fidelity Bonds. - The Board may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premium on such bonds shall be paid by the Associations.

Chapter V

Office Bearers Of The Board

32. Designations. - The principal office bearers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board. The Board may appoint an Assistant Secretary and an Assistant Treasurer and such other office bearers as the Board may consider necessary.

33. Election of the Office bearers. - The Office bearers of the Association shall be elected annually by the Board at the organisational meeting of each new Board.

34. Removal of Office bearers. - Any Office bearers can be removed with or without cause upon an affirmative vote of majority of the Board and his successor can be elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

35. President. - The president shall be the Chief Executive Officer of the Association. He shall preside over all meetings of the Association and of the Board. He shall have all the general powers and duties which are usually vested in the office of the President of an Association, including the power to appoint committees from among the owners from, time to time.

36. Secretary. - The Secretary shall keep two separate minutes books, one for the Association of the Apartment Owners and the other for the Board, pages of each of which shall be consecutively numbered and authenticated by the President of the Association of Apartment Owners, and shall record, in the respective minutes books, and shall record, in the respective minutes books, the resolutions adopted by the Association of Apartment Owners or the Board, as the case may be. He shall have charge of such books and papers as the Board may direct and he shall perform all duties incidental to the office of Secretary.

37. Treasurer. - The Treasurer shall be responsible for Association funds and securities and shall also keep full and accurate accounts of all receipts and disbursements in the books.

Chapter VI

Obligation Of The APARTMENT OWNERS

38. Assessments. - All the owners are obliged to pay monthly assessments imposed by Association to meet all expenses. The assessment shall be made on the value of the unit.

39. Maintenance and Repairs. - (1) Every owner must perform all maintenance and repair work within his own unit.

(2) All the repairs of internal installations of the unit such as water, light, gas, power, sewerage, telephone, air-conditioners, sanitary installations, doors, windows, lamps, and all other accessories, shall be at the expense of apartment owner concerned. (3) The Owner shall reimburse the association for any "expenditure" incurred in repairing or replacing any common area and facilities damaged due to his fault.

40. Use of family Units : Internal Changes. - (1) All the Units shall be utilised for residential/approved purposes only.

(2) An owner shall not carry any structural modification or alteration or installations located therein, in his unit without notifying the association in writing. The Association shall have the obligation to answer within thirty days and failure to do so shall mean that there is no objection to the proposed modification, alteration or installation. (3) No owner shall undertake any work that affects the external facade of the building from any angle i.e. covering of balconies and terraces, change of colour, etc. (4) No owner shall undertake any work that affects the structure of the building. (5) No owner shall undertake any work that, (i) result in encroachment of common areas, (ii) result in damage or disturbance of common areas, adjacent upper or lower floors. If any of the above changes are effected by any owner, he will make them good at his own cost, failing which the Association is entitled to effect recovery of the cost of rectification from him.

41. Use of Common Areas and Facilities and Restricted Common Areas and Facilities. - (1) The owner shall not place or cause to be placed in the lobbies vestibules, stairways, elevators fire escape and other areas of facilities of a similar nature both common and restricted, any furniture, packages or objects of any kind. Such areas shall be used for no other purpose than for normal transit through them.

(2) If lift and/or elevators are provided in the building, as part of the common areas and facilities, they shall be used by the owners of the apartment and/or their tenants and/or any one claiming under them for the transportation of the owners, the tenant and their guests as also the employees of the owners, their tenants and of the management and heavy article or any other articles, the

transportation of which in the lift or elevator along with the owners, tenants or their guests or the employees shall cause discomfort or inconvenience to other users of the lift or the elevators, shall be transported only with the lifts or elevators are not in use by other users; provided this restriction shall not apply, if an elevator or lift is provided for the exclusive transportation of articles, packages, merchandise and such other objects.

42. Right of Entry. - (1) An owner shall grant the right of entry to the manager or to any other person authorised by the Board of the Association in case of emergency whether the owner is present at the time or not.

(2) An owner shall permit other owners or their representatives when so required to enter his unit for the use of performing installation and alterations or repairs to the mechanical or electrical services provided, that requests for entry are made in advance and that such entry is at a time convenient to the owner, but, in case of emergency, such right of entry shall be immediate. Rules of Conduct. -(1) No resident shall post any advertisement or poster of any kind in or on the building, except as authorised by the Association. (2) The residents shall exercise extreme care about making noises or the use of musical instruments, radios, television and amplifiers etc. that may disturb others. Residents keeping pets shall abide by the municipal sanitary bye-laws or regulations. (3) It is prohibited to hang garments, rugs etc. from the windows, balconies or from any of the facades. (4) It is prohibited to throw garbage or trash outside the disposal places provided for such purpose in the service areas. If such place is not provided, all garbage or trash shall be collected in a vessel and thrown in the municipal dustbin in prescribed manner. (5) No owner, resident or lessee shall install wiring for electrical or telephone installation, television antenna, machines or air-conditioning units etc., on the exterior of the building except as authorized by the Association.

Chapter VII

Funds And Their Investments

Funds. - Funds may be raised by the Association in all or any of the following ways:-(a) by shares; (b) by contributions and donations by the apartment owners; (c) from common profits which shall form the nucleus of the reserve funds; (d) by raising loans, if necessary, subject to such terms and conditions as the Association, with the approval of the Competent Authority, may determine in this behalf.

45. Investment. - The association may invest or deposit its funds in any nationalised bank.

46. Affiliation. - The Association may after consulting the Competent Authority become a member of any federation of apartment owners and pay the subscription from time to time.

47. Accounts. - (1) The Association shall open a banking account and deposit the money received on behalf of the Association. The Secretary may retain in his personal custody an amount not exceeding Rs. 20000/- for petty expenses. All payments above Rs. 5000/- shall be made by cheque, signed by the Secretary and one member of the Board.

(2) Each apartment owner shall have a passbook in which the Secretary shall enter amounts paid to or received for his share in receipts of profits from common areas and contributions towards common expenses and his share of the assessment and other dues if any, in respect of his apartment. (3) The Association shall on or before the 31st day of July in each year publish an audited financial statement in respect of the common areas and facilities containing: - (a) the profit and loss accounts; (b) the receipts and expenditure of the previous financial year; or (c) a summary of the property and an asset and liabilities of the common areas and facilities of the association giving such particulars as will disclose the general nature of these liabilities and assets and how the value of fixed assets have been arrived at. (4) The audited financial statement shall be opened to the inspection of any member of the Association during office hours and a copy shall be submitted to the Competent Authority not later than the 15th day of August of every year. (5) Every financial statement shall be accompanied by a list of the apartment owners and the similar list of loanes.

48. Publication of Accounts and Reports. - A copy of the last financial statement and of the report of the auditor, if any, shall be kept in a conspicuous place in the office of the Association.

49. Appointment of Auditors. - The Association shall appoint at its general meeting an auditor who shall audit the accounts of the Association to be prepared by the Board.

50. Power of Auditor. - The auditor shall be entitled to call for and examine any papers or documents belonging to the Association relating to the common areas and facilities and common expenses and shall make a special report, to the Association upon any matter connected with the accounts which appears to him to require notice.

Chapter VIII

Mortgages

51. Notice to Association. - If a owner mortgages his unit, he shall notify the Association through the manager or President of the Board, the name and address of the mortgagee and the Association shall maintain such

information in a book entitled "**Mortgagees of Units**".

52. Notice of un-paid Assessments. - The Association shall, at the request of a mortgagee of a unit, report any un-paid assessment due from the owner of such unit,

Chapter IX

53. Compliance. - These bye-laws are set forth to comply with the requirement of the Madhya Pradesh Prakoshtha Swamitva Adhiniyam, 2000. In case any of these bye-laws conflict with the provisions of the said Act it is hereby agreed and accepted that the provisions of the Act shall prevail.

54. Seal of the Association. - The Association shall have a common seal which shall be in the custody of the Secretary and shall be used under the authority of a resolution of the Board and every Deed of Instrument to which seal is affixed shall be attested for and on behalf of the Association by two members of the Board and the Secretary or any other person authorised-by the Association.

Chapter X

Amendments To Apartment Ownership

55. Amendment of Bye-laws. - These Bye-laws may be amended by the Association in a duly constituted meeting for such purpose and no amendment shall take effect unless approved by owners representing at least two third of the total number of the units in the building with the prior approval of the competent authority.