

# **Punjab Apartment and Property Regulation Act, 1995**

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### **Act 14 of 1995**

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Punjab Apartment and Property Regulation Act, 1995(Punjab Act 14 of 1995)Last Updated 30th August, 2019Statement of Objects and Reasons - For some time past the problem of controlling the activities of the private colonisers engaged in the construction of apartments and sale of plots has been engaging the attention of the State Government. Some of the private colonisers are operating solely with the motive of profits with scant regard to the interest and rights of the individual buyers of plots/flats. In order to check, control and regulate effectively the activities of such private colonisers and protect the interests of the consumers, the Government felt the need to formulate a law. The National Housing Policy also stipulates a larger role for the private initiative in adding to the Housing stock and serviced land for housing which also needs a progressive law which encourages construction of houses/development of plots by the private parties and fully protects the interest of the buyers of plots/flats. The Government of India have also prepared and circulated a Model Draft Bill, for the guidance of the State Government to enact such a legislation speedily. Hence this Bill. Published vide Punjab Government Gazette (Extraordinary), March 13, 1995 Page 445. Coming into Force - Notification: No 2/3/92-2HGII/5080. dated 13th October, 1995 - In exercise of powers conferred by subsection (3) of section 1 of the Punjab Apartment and Property Regulation Act, 1995 (Punjab Act 14 of 1995) the Governor Punjab is pleased to appoint 15th day of October 1995, as the date on which the said Act shall come into force in the whole of the State of Punjab. Received the assent of the President of India on the 2nd August, 1995, and was published in the Punjab Gazette, (Extraordinary), Legislative Supplement, Part I, dated August 9, 1995/Sravana 18, 1917. An Act to regulate the promotion of the construction, sale, transfer and management of apartments on ownership basis, to regulate colonies and property transactions and to provide for registration of promoters and estate agents and enforcement of obligations on promoters and estate agents and for matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Punjab in the Forty-Sixth Year of the Republic of India as follows:-

## **Part I – Chapter I**

### **Preliminary**

## 1. Short title, extent and commencement.

- (i) This Act may be called the Punjab Apartment and Property Regulation Act, 1995.(2)It shall extend to the whole of the State of Punjab.(3)This Act shall come into force on such date as the State Government may by notification in the official Gazette, appoint and different dates may be appointed for different areas of the State.

## 2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"advertisement" means any board, device, letter, model, notice, placard, sign board, or representation in any manner whatsoever, wholly or in part, intended for being announced or displayed so as to make it generally known;(b)"allottee" in relation to an apartment or plot, means the person to whom such apartment or plot has been allotted, sold or otherwise transferred by the promoter;(c)"apartment" whether 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 a building, or in a plot of land, used or intended to be used for residence, office, shop, showroom, or godown or for carrying on any business, industry, occupation, profession or trade, or for any other type of independent use ancillary to the purpose specified above 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 allottee for parking any vehicle or, as the case may be, for the residence of any domestic servant employed in such apartment;(cc)[ "apartment building" means a building constructed on any land, containing five or more apartments or two or more buildings with a total of five or more apartments or any existing building converted into five or more apartments;] [Inserted by Punjab Act No. 21 of 2014, dated 27.8.2014.]Explanation. - (1) 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. - (2) 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 owning an apartment and an undivided interest in the common areas and facilities appurtenant to such apartment in the percentage specified in the conveyance deed of apartment;Explanation. - A member of a co-operative housing society of the tenant co-partnership type, or an allottee under a hire-purchase agreement, will be deemed to be an owner, entitled to membership of the association;(f)"association" means an association consisting of all the apartment owners in a building acting as a group in accordance with the bye-laws made by the association under the Punjab Apartment Ownership Act, 1995 [and includes or an association formed under section 17-A of this Act;] [Substituted ';' by Punjab Act No. 21 of 2014, dated 27.8.2014.](g)[ "building" means any construction or part of a construction which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not, and includes any out-house, stable, cattle shed and garage;] [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.](h)"building

regulations" means the rules or regulations or bye-laws made under any law for the time being in force for the erection or re-erection of buildings or parts thereof and for the purpose of this Act includes Zoning Regulations framed under any law for the time being in force;(i)[ "colony" means an area of land not less than one thousand square meters divided or proposed to be divided by way of registered sale or through lease or transfer of physical possession of plots or apartment building for residential, commercial or industrial purposes including cyber city/cyber park, construction of flats in the form of group housing or for construction of integrated commercial complexes but does not include any area of abadi deh of a village falling inside its Lal Lakir or phirny or land divided or proposed to be divided - [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.](i)for the purpose of agriculture:Provided that area proposed to be divided is not less than one thousand metres; or(ii)by a company, institution or factory for creation of housing for its employees provided that there is no profit-motive nor ownership of the houses is transferred to the employees and their rights to accommodation are restricted to the period of their employment with company, institution or factory;](j)"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 conveyance deed of apartment, nor are handed over or intended to be handed over to local authority or other public service agency and shall include the limited common areas and facilities;(k)"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 made by the association under the Punjab Apartment Ownership Act, 1995, or agreed upon by the association, as common expenses;(iii)the Government and municipal taxes, including ground rent and property tax, which is not assessed separately for each apartment;(l)"competent authority" means any person or authority appointed by the State Government, by notification in the Official Gazette, to exercise and perform all or any of the powers and functions of the competent authority under this Act and the rules made thereunder;(m)"development charges" means the cost of external development works and internal development works;(n)"development works" means internal development works and external development works;(o)"estate agent" means a person who negotiates or acts on behalf of one person in a transaction of transfer of his property, whether by way of sale, lease, licence, mortgage or otherwise, with another person, and receives remuneration for his services in the form of commission, and includes also a person who introduces to each other for negotiation such persons or their agents;Explanation. - The person who acts as described in clause (o) shall be deemed to be an estate agent, even if he styles himself as a land or housing agent, property or real estate consultant, property dealer, realtor, or by any other name;(p)"external development works" includes roads and road systems, water supply, sewerage and drainage systems, electric supply or any other work which may have to be executed in the periphery of, or outside, a colony for its benefit;(q)"Government" or "State Government" means the Government of the State of Punjab;(r)[ "internal development works" means roads, parks, footpaths, water supply, sewers, drains, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, storm water drainage, rain water harvesting, domestic solid waste collection centre, electric line upto individual plots or any other work in a colony necessary for its proper development, as may be specified by the competent authority; and] [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.](s)"joint family" means a Hindu

undivided family and in the case of other person, a group the members of which are by custom joint in possession or residence;(t)"land" means a portion of the surface of the earth, comprising the ground or soil and every thing 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 earth or to things attached to the earth, easements, rights and appurtenances belonging to them and benefits arising out of them and includes the sites of villages, towns and cities;(u)"limited common areas and facilities" means those common areas and facilities which are designated in writing by the promoter before the allotment, sale or transfer of any apartment, as reserved for use of certain apartments to the exclusion of the other apartments;(v)"local authority" means a corporation constituted under section 4 of the Punjab Municipal Corporation Act, 1976 (Punjab Act No. 42 of 1976) or a committee constituted under section 12 of the Punjab Municipal Act, 1911 (Punjab Act No. 3 of 1911) or any other authority notified by the State Government for the purposes of this Act;(w)"person" includes a company, firm, co-operative society, joint family and an incorporated body of persons;(x)"prescribed" means prescribed by rules made under this Act;(y)[ "promoter" means the person, [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.](a)who is the owner of land, on which a colony is developed;(b)builder, who constructs or causes to be constructed an apartment 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;(c)colonizer, who develops land into a colony, whether or not he also constructs structures on any of the plots, for the purpose of selling to other persons, all or some of the plots, whether open or with structures thereon;(d)property dealer or estate agent, who offered or sells apartments or plots on behalf of the land owner or builder or colonizer or any other person, by whatever name he may be called;(e)who claims to be acting as the holder of a power of attorney from the owner of the land on which the building is constructed or a colony is developed; and(f)who styles himself as a developer, or by any other name.Explanation. - Any development authority and any other public body so notified by the State Government are deemed to be promoter in respect of allottees of, -(i)building constructed by them on land owned by them or placed at their disposal by the State Government; or(ii)plots owned by them or placed at their disposal by the State Government;](z)"property" means the land, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, and includes every type 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; [\*\*\*] [Omitted 'and' by Punjab Act No. 21 of 2014, dated 27.8.2014.](za)"section" means a section of this Act [; and] [Substituted '.' by Punjab Act No. 21 of 2014, dated 27.8.2014.](zb)[ "unauthorized colony" means a colony which has been developed in contravention with the provisions of the Act and the rules made thereunder.] [Added by Punjab Act No. 21 of 2014, dated 27.8.2014.]

## Chapter II

# Regulation of Promotion of Construction, Sale, Transfer and Management of Apartments, Plots and Properties

### 3. General liabilities of promoter.

(1) Notwithstanding anything in any other law for the time being in the force, a promoter, who develops a colony or who constructs or intends to construct a building of apartments, shall, in all transactions with persons taking or intending to take a plot or an apartment on ownership basis, be liable to give or produce, or cause to be given or produced, the information and the documents mentioned hereinafter in this section. (2) A promoter who develops a colony or who constructs or intends to construct such building of apartments shall, - (a) make full and true disclosure of the nature of his title to the land on which such colony is developed or such building is constructed or is to be constructed, such title to the land having been duly certified by an [officer not below the rank of Assistant Collector Grade-II after he has examined the transactions concerning it in the previous ten years] [Substituted 'attorney-at-law or an advocate of not less than seven years standing, after he has examined the transactions concerning it in the previous thirty years;' by Punjab Act No. 21 of 2014, dated 27.8.2014.] and if the land is owned by another person, the consent of the owner of such land to the development of the colony or construction of the building has been obtained; (b) make full and true disclosure of all encumbrances on such land, including any right, title, interest or claim of any party in or [over such land duly certified by an authority not below the rank of Assistant Collector Grade-II] [Substituted 'over such land' by Punjab Act No. 21 of 2014, dated 27.8.2014.]; (c) give inspection on seven days' notice or demand, - (i) of the layout of the colony and plan of development works to be executed in a colony as approved by the prescribed authority in the case of a colony; and (ii) of the plan, and specifications of the building built or to be built on the land as well as of the common areas and facilities and common services provided (including supply of electricity and water, sewerage and drainage systems, lifts, fire-fighting equipment), such plans and specifications being in accordance with the provisions of the building regulations, and approved by the authority which is required so to do under any law for the time being in force, indicating thereon what parts of the building and the appurtenant areas are intended to be kept as common areas and facilities in the case of apartments : Provided that the number and sizes of the apartments shall conform to such building regulations, and the area of an apartment shall not exceed such limit as may be fixed by the competent authority; (d) display or keep all the documents, plans and specifications or copies thereof referred to in clauses (a), (b) and (c) of this sub-section at the site and in his office and make them available for inspection to persons taking or intending to take a plot or an apartment and after the association is formed, he shall furnish the association a copy of these documents and of the sanctioned plan of the building; (e) disclose the nature of fixtures, fittings and amenities, including the provision for one or more lifts, provided or to be provided; (f) disclose on reasonable notice or demand, if the promoter is himself the builder, the prescribed particulars as respects the designs and the material to be used in construction, and, if the promoter is not himself the builder, disclose all agreements entered into by him with the architects and contractors regarding the design, materials and construction of the building; (g) specify, in writing, the date by which possession of the plot or apartment is to be handed over and he shall hand over such possession accordingly; (h) except where there are no agreements about specific plots or apartments and allotment is made by draw of lots, prepare and maintain a list of plots or apartments with their numbers, the names and addresses of the parties who have taken or agreed to take plots or apartments, the price charged or agreed to be charged therefor, and the terms and conditions, if any, on which the plots or apartments are taken or agreed to be taken: [Provided that the Government

may by notification direct, -(i)in the case of residential apartments, ten percent of the total apartments be reserved for economically weaker section of society; and(ii)in the case of colony, five percent area of the gross area of the project, be reserved for plots to be allotted to the persons belonging to economically weaker sections of society, in such manner and on terms and conditions, as may be specified.](f)state in writing, the precise nature of and the terms and conditions governing the association to be constituted of persons who have taken or are to take the apartments;(j)not allow persons to enter into possession until an occupation certificate required under any law is duly given by the appropriate authority under that law and no person shall take possession of an apartment until such occupation certificate is obtained;(k)make a full and true disclosure of all outgoings, including ground rent, if any, municipal or other taxes, charges for water and electricity, revenue assessment, interest on mortgages or other encumbrances, if any;(l)give the estimated cost of the building and the apartments proposed to be constructed, or colony to be developed, and the manner in which escalation in such cost for valid reasons may be approved by mutual agreement;(m)make a full true disclosure of such other information and documents in such manner as may be prescribed; and(n)give on demand and on payment of reasonable charges true copies of such of the documents referred to in any of the clauses of this sub-section as may be prescribed.

#### **4. Issuing of advertisement or prospectus.**

- [(1) No promoter shall develop any land into a colony or offer plots for sale or transfer or construct apartments or issue any advertisement or prospects for such sale inviting persons to make advances or deposits for booking, unless, -(a)he obtains licence under sub-section (3) of section 5, which is in force and has not been suspended or revoked and its number is mentioned in the advertisement or prospects ;](b)a copy of the advertisement or prospectus is filed in the office of the competent authority before its issue or publication.(2)The advertisement or prospectus issued under sub-section (1) shall disclose the area of the apartments or plots offered for sale, title to the land, extent and situation of land, the price payable and in the case of colonies, also layout of the colony, the plan regarding the development works to be executed in a colony and the number and the validity of the licence issued by the competent authority under sub-section (3) of section 5, and such other matters as may be prescribed.(3)The advertisement or prospectus shall be available for inspection at the office of the promoter and at the site where the building is being constructed or on the land being developed into a colony, alongwith the documents specified in this section and in section 3.(4)When any person makes an advance or deposits on the faith of the advertisement or prospectus, and sustains any loss or damage by reason of any untrue statement included therein, he shall be compensated by,-(a)the promoter, if an individual;(b)every partner of the firm, if the promoter is a firm;(c)every person who is a director at the time of issue of the advertisement or prospectus, if the promoter is a company;Provided, however, that such person shall not be liable if he proves that,-(a)he withdrew his consent to become a director before the issue of the advertisement or prospectus; or(b)the advertisement or prospectus was issued without his knowledge or consent, and on becoming aware of its issue, he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or(c)after the issue of the advertisement or prospectus and before any agreement was entered into with buyers of plots or apartments, he, on becoming aware of any untrue statement therein, withdrew his consent and gave reasonable public notice of the withdrawal and of the reasons therefor.(5)When any advertisement or prospectus

includes any untrue statement, every person who authorised its issue, shall be punished with imprisonment for a term which may extend [upto three years or with fine which may extend upto five lac rupees] [Substituted 'upto one year or with fine which may extend upto five thousand rupees' by Punjab Act No. 21 of 2014, dated 27.8.2014.], or, with both, unless he proves that the statement was immaterial or that he had reason to believe and did upto the time of issue of the advertisement or prospectus believe that the statement was true.

## **5. [ Development of land into colony. [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.]**

(1)Any promoter, who desires to develop a land into a colony having the prescribed qualifications, shall make an application in the prescribed form alongwith his title of minimum twenty five per cent of project land and irrevocable consent for the rest of land, if it is owned by other persons, permission for conversion of land use from the competent authority and the prescribed information, with the prescribed fee and charges, to the competent authority for grant of permission for the same and separate permission shall be necessary for each colony.(2)On receipt of the application under sub-section (1), the competent authority, after making enquiry into the title of the land, extent and situation of the land, capacity of the promoter to develop the colony, layout of the colony, conformity of the development of the colony with the neighboring areas, plan of development works to be executed in the colony, and in case of apartment buildings, design, specification of material to be used, common areas and facilities to be provided, structural safety and fire safety and such other matters as it may specify, and after affording the applicant an opportunity of being heard and also taking into consideration the opinion of the prescribed authority, shall pass an order, in writing recording reasons either granting or refusing to grant such permission.(3)Where an order is passed granting permission under sub-section (2), the competent authority shall grant a license in the prescribed form after the promoter has complied with the following conditions, namely: -(i)the promoter shall acquire the title of land not owned by him, within the time period given in the terms and conditions of the licence, and shall not make any sale or transfer of land which is not under his title;(ii)furnish a bank guarantee equal to thirty five percent of the estimated cost of the development works certified by the competent authority, or mortgage plots falling in the same project equal to thirty five percent value of estimated cost of development by equitable mortgage deed to the satisfaction of the competent authority in the manner prescribed, which shall be marked on the layout plan and entered in the revenue record;(iii)has entered into an agreement with the competent authority in the prescribed form for carrying out the development works in accordance with the conditions of the licence;(iv)has paid, subject to the provisions of sub-section (6), the Change of Land Use Charges, External Development Charges and such other charges, as may be notified by the Government from time to time.(4)In case, a promoter intends to revise the layout plan or zoning plan of the approved colony or building plan, he shall be required to obtain a revised permission, subject to fulfillment of all liabilities created due to prior permission, on payment of such charges and such fee and on such terms and conditions, as may be specified after giving due notice to the plot or apartment holders. However, the said revision shall not extend the period of validity of the license granted under sub-section (3).(5)The license granted under sub-section (3), shall be valid for a period of five years and shall be renewable for a further period of two years on payment of such fee and charges, and on such terms and conditions, as may be specified by the

competent authority.(6)The promoter shall enter into agreement give undertaking to pay development charges for external development works carried out or to be carried out by the Government or a local authority.(7)The State Government shall determine the development charges and the time within which such development charges as referred to in subsection (6), shall be paid to the State Government or to such authority, as may be notified by the State Government.(8)The Government may allow payment of external development charges and other charges mentioned in such installments, as may be notified by it from time to time. In such case, the first installment shall be deposited before the grant of licence and the promoter shall furnish and give undertaking to pay the balance installments as per notified schedule supported by such additional bank guarantee or mortgage of such additional property, as may be necessary to secure payment of the balance installments.(9)The promoter shall carry out and complete the development of the land in accordance with the provisions of the Punjab Regional and Town Planning and Development Act, 1995 (Punjab Act 11 of 1995).(10)The promoter shall construct or get constructed at his own cost, schools, hospitals, parks, community centers and other community buildings, on the land set apart for this purpose or promoter may sell or transfer land meant for schools and hospital etc. on such terms and conditions, as may be specified by the Government. Further, the area under roads, open spaces, parks and other public utilities shall be transferred to the local authority before issue of completion certificate.(11)The promoter shall, reserve five percent area of the gross project area in the case of colony and ten percent of the apartments in the case of apartments in the manner, as may be specified by the Government for reservation and disposal of such plots/apartments for economically weaker section of the society.(12)The promoter shall carry out all directions issued by the competent authority for ensuring due compliance of the execution of the layout and the development works therein and to permit the competent authority or any officer authorized by it to inspect such execution.(13)The promoter shall be responsible for the maintenance and upkeep of all roads, open spaces, public parks and public health services for a period of five years from the date of issue of completion certificate or till the date of transfer the same, free of cost to the State Government or the local authority:Provided that after the completion of development works in the colony, in all respects, the competent authority, may allow the promoter to hand over the maintenance of the infrastructure and services mentioned in this sub-section to an association of residents formed under section 17-A, which shall be responsible for management, maintenance, upkeep of common areas, infrastructure and common services of the colony.(14)In the event of the promoter contravening any provisions of this Act, or rules made thereunder or any conditions of the licence granted under sub-section (3), the competent authority may, after giving an opportunity of being heard, suspend or cancel the licence and enforce the bank guarantee or mortgage property furnished by the promoter under subsection (3).(15)When a licence is suspended or cancelled under sub-section (14), the competent authority may itself carry out or cause to be carried out the development works, and after adjusting the amount received as a result of enforcement of bank guarantee or by disposal of mortgaged property, recover such charges, as the competent authority may have to incur on the said development works from the promoter and the allottees in the manner prescribed as arrears of land revenue.(16)The liability of the promoter for payment of development charges referred to in sub-section (15), shall not exceed the amount the promoter has actually recovered from the allottees less the amount actually spent on such development works, and that of the allottees shall not exceed the amount, which they would have to pay to the promoter towards the expenses of the said development works under the terms and conditions of the agreement of the sale



or transfer entered into between them: Provided that the competent authority may, recover from the allottees with their consent, an amount in excess or what may be admissible under the aforesaid terms of agreement of sale or transfer.(17)Notwithstanding anything contained in this Act, after development works have been carried out under sub-section (15), the competent authority may, with a view to enabling the promoter, to transfer the possession of, and the title of, the land to the allottees within a specified time, authorize the promoter by an order to receive the balance amount, if any, due from the allottees after adjustment of the amount which may have been recovered by the competent authority towards the cost of the development works and also transfer the possession of, and the title of, the land to the allottees within aforesaid time and if the promoter fails to do so, the competent authority shall on behalf of the promoter transfer the possession of, and title of, the land to the allottees on receipt of the amount which was due from them.(18)After meeting the expenses on development works under subsection (15), the balance amount shall be payable to the promoter.] [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.]

## 6. Contents of agreement of sale.

(1)Notwithstanding anything contained in any other law for the time being in force, a promoter who intends to construct or constructs a building of apartments, all or some of which are to be taken or are taken on ownership basis, or who intends to offer for sale plots in a colony, shall, before he accepts any sum of money as advance payment or deposit, which shall not be more than twenty five per cent of the sale price, enter into a written agreement for sale with each of such persons who are to take or have taken such apartments, or plots, as the case may be, and the agreement shall be in the prescribed form together with prescribed documents and shall be registered under the Registration Act, 1908 (Central Act No. 16 of 1908) :Provided that, if only a refundable application fee is collected from the applicant before draw of lots for allotment, such agreement will be required only after such draw of lots.(2)The promoter shall not cancel unilaterally the agreement of sale entered into under sub-section (1) and if he has sufficient cause to cancel it, he shall give due notice to the other parties to the agreement and tender a refund of the full amount collected together with interest at the rate as may be prescribed.(3)The agreement to be prescribed under sub-section (1) shall contain inter alia the particulars as hereunder specified in clause (a) in respect of apartments and as specified in clause (b) in respect of plots in a colony and to such agreement shall be attached the copies of the documents specified in clause (c),-(a)the particulars in the case of apartment,-(i)if the building is to be constructed, the liability of the promoter to construct the building according to the plans and specifications approved by the authority which is required so to do under any law for the time being in force;(ii)the date by which the possession of the apartment is to be handed over to the allottee;(iii)the area of the apartment including the area of the balconies which should be shown separately;(iv)the price of the apartment including the proportionate price of the common areas and facilities which should be shown separately, to be paid by the allottee of the apartment and the intervals at which the instalments thereof may be paid;(v)the precise nature of the association to be constituted of the persons who have taken or are to take the apartments;(vi)the nature, extent and description of the common areas and facilities and the limited common areas and facilities, if any;(vii)the percentage of undivided interest in the common areas and facilities and in the limited common areas and facilities, if any, appertaining to the apartment agreed to be sold, such percentage shall be the ratio of the built-up area of the apartment to the total built-up area of all the

apartments;(viii)the statement of the use for which the apartment is intended and restrictions on its use, if any;(b)particulars in the case of plots in a colony,-(i)the date by which the possession of the plot is to be handed over to allottee;(ii)the area and price of the plot; and(iii)the statement of the use for which the plot is intended and restriction on its use, if any;(c)the copies of documents to be attached with the agreement,-(i)the certificate by [officer not below the rank of Assistant Collector Grade-II] [Substituted 'an attorney-at-law or advocate' by Punjab Act No. 21 of 2014, dated 27.8.2014.] referred to in clause (a) of sub-section (2) of section 3;(ii)certified copy from any relevant revenue record showing the nature of the title of the promoter to the plot or the land on which the building of apartments is constructed or is to be constructed; [\*\*\*] [Omitted 'and' by Punjab Act No. 21 of 2014, dated 27.8.2014.](iii)the plans and specifications of the apartment as approved by the authority which is required so to do under any law for the time being in force [; and] [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.](iv)[ copy of the approved layout plan of colony.] [Added by Punjab Act No. 21 of 2014, dated 27.8.2014.]

## **7. Registration of agreements of sale.**

(1)Any agreement of sale entered into under the sub-section (1) of section 6 shall be presented for registration under the Registration Act, 1908, (Central Act No. 16 of 1908), by the promoter or by any other person competent to do so at the proper registration office and execution thereof shall be admitted by the person executing the document or his representative, assignee or agent.(2)Where any agreement of sale is entered into or is purported to be entered into at any time before the commencement of this Act, such document may be presented for registration at the proper registration office and its execution may be admitted by any of the persons concerned within six months of the commencement of this Act, and the registering officer shall accept such document for registration and register it as if it was presented and its execution admitted within time.(3)On presenting a document for registration under sub-section (2), if the person executing such document or his representative, assignee or agent does not appear before the registering officer and admit the execution of the document, the registering officer shall cause a summons to be issued requiring the executant to appear at the registration office either in person or by duly authorised agent on a date fixed in the summons and if the executant fails to appear in compliance with the summons so issued, the execution of the document shall be deemed to be admitted by him and the registering officer may proceed to register the document accordingly and if the executant appears before the registering officer but denies execution of the document, the registering officer shall, after giving him a reasonable opportunity of being heard, if satisfied that the document has been executed by him, proceed to register the document accordingly.

## **8. Effect of non-registration of agreement.**

- Where any agreement for sale entered into under sub-section (1) of section 6, whether entered into before or after the commencement of this Act, remains unregistered for any reason, then notwithstanding anything contained in any law for the time being in force, or in any judgement, decree or order of any court, it may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1963 (Central Act No. 47 of 1963), or as evidence, of part performance of a contract for the purposes of section 53A of the Transfer of

Property Act, 1882, (Central Act No. IV of 1882), or as evidence of any collateral transaction not required to be effected by registered instrument.

## **9. [Accounts of sums taken by promoters. [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.]**

- The promoter shall maintain a separate account in any scheduled bank of sums taken by him from persons intending to take or who have taken apartments or plots, as advance, towards sale price or for any other purpose, or, deposit, including any sum so taken towards the share capital for the formation of a co-operative society or a company, or towards the outgoings (including ground rent, if any, municipal or other local taxes, charges for water or electricity, revenue assessment, interest on mortgages or other encumbrances, if any, stamp duty and registration fee for the agreement of sale and the conveyance); and the promoter shall hold the said moneys for the purposes for which they were given and shall disburse the moneys for those purposes including for the construction of apartments and, in the case of colonies, for meeting the cost of development works, and shall submit quarterly statement to the competent authority making full and true disclosure of all transactions in respect of that account and may utilize not more than fifty percent for any other purpose from the amounts so collected.] [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.]

## **10. Responsibility for outgoings till transfer.**

- A promoter shall, while he is in possession, and, where he collects from persons who have taken or are to take apartments or plots, sums for the payment of outgoings, even thereafter, pay all outgoings (including ground rent, municipal or other local taxes, charges for water or electricity, revenue assessment, interest on mortgages or other encumbrances, if any) until he transfers the property to the persons taking over the apartments or plots, where any promoter fails to pay all or any of the outgoings collected by him from the persons who have taken over or are to take over apartments or plots, before transferring the property to the persons taking over the apartments or plots, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be responsible for any legal proceedings which may be taken therefor by such authority or person.

## **11. No alterations, rectification of defects.**

(1)After the plans and specifications of the building as approved by the authority which is required so to do under any law are disclosed or furnished to the person who agrees to take an apartment, the promoter shall;(i)not make any alterations in the structures described therein in respect of such apartment, without the previous consent of that person; or(ii)not make any other alterations in, or additions to the structure of the building or construct any additional structures, without the previous consent of all the persons who have agreed to take apartments in such building.(2)Subject to the provisions of sub-section (1), the building shall be constructed and completed in accordance with the plans and specifications aforesaid; and if any defect in the building or material used, or if any unauthorised change in the construction is brought to the notice of the promoter within a period

of two years from the date of handing over possession, it shall wherever possible be rectified by the promoter without further charge to the persons who have agreed to take the apartments, and in other cases such persons shall be entitled to receive reasonable compensation for such defects or change and where there is a dispute as regards any defect in the building or material used or any unauthorised change in the construction, or as to whether it is reasonably possible for the promoter to rectify any such defect or change, or as regards the amount of reasonable compensation payable in respect of any such defect or change which cannot be or is not rectified by the promoter, the matter shall, on payment of such fee as may be prescribed and within a period of three years from the date of handing over possession, be referred for decision to the competent authority and the competent authority shall, after giving an opportunity of being heard to the parties and after making further enquiry, if any, as it may deem fit, record its decision and the decision so recorded shall be final.

## **12. Refund of amount.**

- If the promoter, -(a) fails to give possession, in accordance with the terms of his agreement, of a plot or an apartment duly completed by the date specified, or any further date agreed to by the parties; or (b) for reasons beyond his control and of his agents, is unable to give possession of the plot or the apartment by the date specified, or the further agreed date; the promoter shall be liable on demand, but without prejudice to any other remedies to which he may be liable, to refund the amounts already received by him in respect of that plot or apartments with simple interest at the rate as may be determined by the competent authority from the date the promoter received the sums till the date the amounts and interest thereon is refunded, and the amounts and the interest shall be a charge on the land on which a plot it to be developed, or a building is or was to be constructed and the construction, if any, thereon shall be subject to any prior encumbrances.

## **13. No mortgage without consent.**

(1) No promoter shall, after he executes an agreement to sell any apartment or plot, mortgage or create a charge on such apartment or the land or the plot, without the previous consent of the person who takes or agrees to take such apartment or plot, and if any such mortgage or charge is made or created without such previous consent after the agreement referred to in section 6 is registered, it shall not affect the right and interest of such person. (2) If a promoter has executed an agreement of sale of an apartment or a plot with a person and has not yet received from him all the amounts agreed to be paid, the latter shall not mortgage or create a charge against such apartment or plot without the previous consent of the promoter : Provided that the promoter shall not withhold consent if the mortgage or charge is for the purpose of obtaining finance for the payment of amounts due to the promoter.

## **14. Occupation and completion certificate.**

(1) It is the responsibility of the promoter, -(i) in the case of apartments, to obtain from the authority required to do so under any law completion and occupation certificates for the building and if a promoter, within a reasonable time, after the construction of the building, does not apply for an

occupation certificate from the aforesaid authority, the allottee of an apartment may apply for an occupation certificate from the said authority; and(ii)in the case of a colony, to obtain completion certificate from the competent authority to the effect that the development works have been completed in all respects as per terms and conditions of the licence granted to him under section 5.(2)The authority referred to in sub-section (1) shall, after satisfying itself about the agreement of sale between the promoter and the allottee, and the compliance of the building regulations and all other formalities, issue an occupation certificate:[Provided that the promoter shall transfer free of cost the area under roads, open spaces, parks and sites meant for public utilities to the local authority or development authority, as the case may be, and this transfer would be exempted from stamp duty and any cess applicable.] [Added by Punjab Act No. 21 of 2014, dated 27.8.2014.]

## **15. [ Promoter to the execute documents. [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.]**

(1)After the occupation certificate is obtained under section 14, the promoter shall submit a copy thereof to the competent authority and thereafter he shall take all necessary steps to complete his title and convey the exclusive ownership of the apartment containing such particulars as may be prescribed and the undivided interest in the common areas and facilities appurtenant to such apartment to the person in whose favour he has executed an agreement of sale of that apartment, and execute a conveyance deed of apartment containing such particulars as may be prescribed and all other relevant documents therefor in accordance with such agreement, within three months from the date of giving possession of the apartment and also deliver all documents of title relating to the property which may be in his possession or power and the promoter shall not reserve any right in the property except to the extent of apartments which he is taking up in his own name and apartments which are meant for sale but are still unsold.(2)In the case of a plotted colony, after obtaining completion certificate from the competent authority, he shall take all necessary steps to execute a conveyance deed of plot in accordance with agreement of sale, within a period of three months from the date of giving possession of the plot and also deliver all documents of title relating to the property, which are in his possession and the promoter shall not reserve any right in the property except to the extent of plots, which he is taking up in his own name and plots, which are meant for sale but are still unsold.]

## **16. Enforcement of registration of conveyance.**

(1)If the promoter without sufficient cause fails to execute the conveyance deed of apartment and other relevant documents within three months in terms of the provisions of section 15, the person in possession of the apartment in pursuance of the agreement of sale may make an application, in writing, in the prescribed form to the competent authority for a certificate to be produced before the concerned registering officer for enforcing the registration of the transfer and on receipt of such application and after making such enquiry as may be necessary and satisfying itself that occupation certificate has been obtained from the authority required to do so under any law and the person in possession has done what he was required to do under the agreement of sale, the competent authority shall issue a certificate to the registering officer that it is a fit case for enforcing registration of the conveyance deed and direct the person who has taken the apartment to present

the conveyance deed of apartment though not executed by the promoter for unilateral execution of registration.(2)After the conveyance deed of apartment alongwith the certificate issued by the competent authority under sub-section (1) is presented for registration, the registering officer shall cause a summons to be issued to the promoter and if the promoter fails to appear in compliance with the summons so issued, the execution of the instrument shall be deemed to be admitted by him and the registering officer shall proceed to register the instrument and if the promoter appears but denies execution of the conveyance deed, the registering officer, after giving him a reasonable opportunity of being heard, if satisfied that the promoter has failed to execute the conveyance deed without sufficient cause, shall proceed to register the same.(3)If the promoter fails to execute a written agreement of sale as required by section 6, or fails to execute the conveyance deed of apartment and other relevant documents as specified in sub-section (1), within three months, the competent authority may, either on a complaint or suo moto, impose for each plot or apartment for which there is a default, a penalty up to a maximum of five per cent of the price of the plot or the apartment or five thousand rupees, whichever is greater, and further minimum penalty for each plot or apartment of one hundred rupees for each day for which the default continues, and the penalty may be recovered as an arrear of land revenue.(4)The penalty imposed in sub-section (3) shall be in addition to any action taken under the Indian Stamp Act, 1899 (Central Act No. 2 of 1899) or the Registration Act, 1908 (Central Act No. 16 of 1908), and if a penalty is imposed under the provisions of any or these Acts, the promoter shall not be liable to penalty for the same offence under this Act or under any other law governing the apartment ownership.

## **17. Promoter's responsibility for essential services.**

(1)No promoter and no person who is responsible for the management and maintenance of a building of apartments, shall without just and sufficient cause, either by himself or through any person, cut off, withhold, curtail or reduce, any essential supply or service enjoyed in respect of such apartment by the person who has taken or agreed to take an apartment or by any person in occupation thereof through or under him.(2)It there is a contravention of the provisions of sub-section (1), the person who has taken or agreed to take the apartment or the occupier thereof may make an application to the competent authority for a direction to restore such supply or service.(3)If the competent authority on enquiry finds that the person referred to in sub-section (2) has been in enjoyment of the essential supply or service and that it was cut off or withheld or curtailed or reduced without just and sufficient cause, the competent authority shall make an order directing the restoration of such supply or service before a date to be specified in the order.(4)If the supply or service is not restored before the date specified under sub-section (3), the promoter or the person responsible for the management and maintenance of the building or apartment shall be liable, upon a further direction by the competent authority to that effect, to a penalty which may extend to one hundred rupees for each day during which the default continues thereafter.(5)Notwithstanding anything contained in any law for the time being in force, the competent authority shall have jurisdiction to decide any application made under sub-section (2), and no other court shall have jurisdiction to entertain such application and no appeal shall lie from any order made on such application :Provided that the State Government may for the purpose of satisfying itself that the order made was according to law, call for the case in which such an order was made and may pass such order with respect thereto as it thinks fit.(6)Any promoter or person

responsible for the management and maintenance of building or apartment, who contravenes the provisions of sub-section (1), shall on conviction, be punished with imprisonment for a term which may extend to three months, or, with fine, which may extend to five thousand rupees, or, with both.(7)The offence under sub-section (6) shall be cognizable, and shall not be triable by any court inferior to that of Judicial Magistrate of the First Class.Explanation. - (1) In this section, "essential supply or service" includes the supply of water, electricity, lights in passages and on staircase, and lifts and conservancy or sanitary service.Explanation. - (2) For the purposes of this section withholding any essential supply or service shall include acts or omissions attributable to the promoter or the person responsible for the management and maintenance of the building or apartment, on account of which the essential supply or service is cut off by the local authority or any other authority.

## **17A. [ Formation of association. [Inserted by Punjab Act No. 21 of 2014, dated 27.8.2014.]**

(1)The competent authority shall by an order direct to form an association of residents in respect of a colony within a period of five years from the date of issue of completion certificate for maintenance and up-keep of common infrastructure and facilities in the colony.(2)The owner or allottee or occupier of any plot or built up property shall be a member of the association from the date he takes possession of such plot or property.(3)The promoter of the colony shall be associate member of the association in respect of plots and properties meant for allotment or sale, but not yet allotted or sold. When such plot or property is later on allotted, sold or otherwise transferred, the allottee shall become a member of the association and the promoter shall cease to be associate member of the association in respect of such plot or property from the date of delivery of possession.(4)The responsibility for administration and management of the colony and maintenance and upkeep of common areas, infrastructure and common services of the colony shall devolve on the association from the date specified in the order under sub-section (1):Provided that provisions of sections 19 to 37 of the Punjab Apartment Ownership Act, 1995 (Punjab Act 13 of 1995), shall apply mutatis mutandis regarding association and regulation of its affairs formed in a colony or building.]

## **18. Regulation of property transactions.**

(1)A promoter who enters into a transaction for the transfer relating to a property shall,-(a)make full and true disclosure of the nature of his title to the property indicating clearly that his title to property has been duly certified by [by the officer not below the rank of Assistant Collector Grade-II and make full and true disclosure of the license obtained from the competent authority under section 5] [Substituted 'an attorney-at-law or an advocate of not less than seven years' standing, after he has examined transactions concerning it in the previous thirty years' by Punjab Act No. 21 of 2014, dated 27.8.2014.];(b)make full and true disclosure of all encumbrances on such property, including any right, title, interest or claim of any party in or over such property;(c)in case the property is land held on lease, produce consent from the lessor for the transaction;[\*\*\*] [Omitted '(d)' by Punjab Act No. 21 of 2014, dated 27.8.2014.](e)make full and true disclosure of any reservations, in the development plan framed under any law for the time being in force or

restrictions on the use to which the property may be put and any liability to carry out any development works;(f)specify in writing the date by which possession of the property is to be handed over;(g)make full and true disclosure of all outgoings, including ground rent, it any, municipal or other local taxes, revenue assessment, interest on any mortgage or other encumbrance, development charges or charges for maintenance and upkeep of roads, drainage, sewerage, water supply, electricity, laid out and constructed by the Government or any local authority.(2)No person shall issue a prospectus or advertisement offering for sale any property, unless the prospectus or advertisement indicates the place and time the documents and certificates relating to the matters specified in sub- section (1) are available for inspection.(3)The provisions of sub-sections (4) and (5) of section 4 shall apply mutatis mutandis for mis-statements in the prospectus or advertisement issued under sub-section (2) of this section.(4)The provisions of sections 13, 15 and 16 shall apply mutatis mutandis to a transaction of property made under this section.,

## **19. General liabilities of allottee.**

(1)Every allottee who has executed an agreement of sale to take an apartment or a plot under section 6 or any property under section 18 shall pay at the proper time and place, the price, the proportionate share of the municipal taxes, water and electricity charges, ground rent, if any, and other charges in accordance with the agreement of sale.(2)Any person who has executed an agreement of sale of an apartment or plot or other property and who, without reasonable excuse, fails to comply with or contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to one per cent of the price of the apartment or plot or property, as the case may be, or one thousand rupees, whichever is greater.

## **20. [ Restriction on development and structures in a colony. [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.]**

(1)No person shall raise construction of any building, lay roads or water supply lines or sewerage lines or erect electricity poles in a colony, in respect of which licence has not been obtained from the competent authority.(2)No department of the Central Government or the State Government or Authority or Municipality or Board, shall sanction any building plan, give water connection, sewerage connection, telephone connection or electricity connection to any building or land situated in a colony or building, in respect of which license has not been obtained from the competent authority.(3)No Registrar or Sub-Registrar appointed under the provisions of the Registration Act, 1908, shall register sale deed or any other document regarding sale of land or plot or building situated in a colony, in respect of which license has not been obtained from the competent authority.(4)Every owner or occupier of a property in a colony in respect of which licence has been obtained under this Act, shall comply, while erecting, re-erecting or using the said property, with the conditions regarding use of land, layout plan, zoning, site coverage, height of building, setback lines, structural and sanitary requirements, architectural control, design of buildings and material to be used in construction, as may be prescribed.]



## **Chapter III**

# **Registration of Promoters and Estate Agents**

### **21. Registration compulsory.**

(1) From such date as may be fixed by the State Government, by notification in the Official Gazette in this behalf, no person shall carry on the business of promoter or estate agent, or represent or hold himself out as carrying on such business, except under and in accordance with the terms and conditions of the certificate of registration granted under this Act. (2) An application for registration under sub-section (1) as a promoter, or as an estate agent, as the case may be, shall be made along with a prescribed fee in the prescribed form to the competent authority, and the competent authority on receipt of the application may enter the name of the applicant in the register of promoters, or, in the register of estate agents, as the case may be, maintained under this Act in the prescribed form and grant a certificate of registration in the prescribed form to such person for the conduct of his business in accordance with the terms and conditions of the certificate of registration and the provisions of this Act and the rules made thereunder.

### **22. Conditions for registration.**

- Before registering and granting a certificate of registration to a promoter or, an estate agent under the provisions of Section 21, the competent authority shall satisfy itself, - (a) in the case if the application is for registration as a promoter, that the promoter himself or one of his employees, or one of the partners of the firm or one of the directors of the company if the applicant is a firm or company, as the case may be, possesses the prescribed qualifications for conducting the business of a promoter; (b) in the case if the application is for registration as an estate agent that the applicant possesses qualifications as may be prescribed; (c) that the applicant furnishes to the competent authority, either a bank guarantee or a security, for such amount and in such manner as may be prescribed; Provided that where the applicant is a statutory corporation, board or authority established under any law for the time being in force, no such security shall be required; (d) that the applicant produces an income-tax clearance certificate from the income tax authorities; (e) that the applicant has not been convicted of an offence under this Act or under any law relating to construction or use of premises, or, if convicted, a period of five years has elapsed after that conviction: Provided that an authority created for development of land or housing under any law for the time being in force, shall be exempted from these conditions, and shall be granted a certificate of registration on application.

### **23. Term and renewal of registration.**

- Every certificate of registration of a promoter or an estate agent granted under section 21 shall be valid for a period of five years and, on the expiry of such a period, it may be renewed for another period of five years by the competent authority, on an application along with the prescribed fee, made by the promoter or the estate agent in that behalf: Provided that the conditions referred to in section 22 continue to be fulfilled and the application has been made at least three months before

the expiry of the certificate of registration.

## **24. Refusal to grant or renew registration.**

- If, after giving the applicant an opportunity of being heard, the competent authority, refuses to grant or renew a certificate of registration, it shall record its reasons therefor in writing and communicate the same to the applicant.

## **25. Cancellation of certificate of registration.**

(1)A certificate of registration granted under section 21 shall be liable to be cancelled by the competent authority on the grounds mentioned in sub-section (2) and by an order made in writing recording the reasons for such cancellation.(2)A certificate or registration is liable to be cancelled, if the promoter or estate agent, as the case may be, -(a)surrenders the certificate of registration as he does not wish to continue carrying on the business;(b)has applied to be adjudicated or has been adjudicated an insolvent or is an undischarged insolvent;(c)has been adjudicated to be of unsound mind by a competent court;(d)has been convicted of an offence under this Act or under any law relating to construction or use of premises and a period of five years has not elapsed after that conviction;(e)has contravened any of the terms or conditions of the certificate of registration or any of the provisions of this Act or the rules made thereunder.

## **26. Notice before cancellation.**

(1)Before cancelling a certificate of registration under section 25, the competent authority shall give notice to the promoter, or the estate agent, as the case may be, specifying the grounds and calling upon him to show-cause why the certificate of registration should not be cancelled.(2)After considering the explanation, if any, offered by the promoter, or, the estate agent, as the case may be, the competent authority may cancel the certificate of registration, or pass such orders as it may deem fit.(3)Notwithstanding anything contained in sub-sections (1) and (2), the competent authority may suspend the certificate of registration of a promoter or an estate agent, as the case may be, pending decision on the matter of cancellation of the certificate of registration.(4)Where any certificate of registration is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any fee paid in respect thereof.

## **27. Carrying on business after cancellation.**

- When a certificate of registration is suspended or cancelled under the provisions of section 26 or when it expires and is not renewed, under the provisions of section 23, a promoter or estate agent, as the case may be, shall cease to carry on the business and any business or activity in furtherance of his business during the period of suspension or after the expiry or cancellation of the certificate of registration, shall be deemed to be carried on without any certificate of registration for the purpose of section 21 and shall be liable for all consequences thereof :Provided that, when decision is pending on an application for renewal of registration, no such presumption shall be made, if

business is carried on after the expiry of the period of registration of certificate.

## **28. Maintenance of accounts and records.**

(1) Every registered promoter or estate agent shall maintain such accounts, registers and records in such form and manner as may be prescribed. (2) The competent authority shall maintain such register as may be prescribed showing sufficient particulars of all cases in which licence under section 5 or certificate of registration under this Chapter is granted or refused by him and the said register shall be available for inspection without charges by all interested persons and such persons shall be entitled to have extract therefrom.

## **29. Audit.**

- The promoter or estate agent shall get his accounts audited after the close of every financial year by a chartered accountant, and shall produce a statement of accounts duly certified and signed by such chartered accountant in the manner prescribed and it shall be verified during the audit that amounts collected for a particular purpose are not utilised for any other purpose.

## **30. Periodical returns.**

- Every registered promoter or estate agent shall submit to the competent authority such periodical returns as may be prescribed.

## **31. Inspection.**

- For the purpose of satisfying itself, that the requirements of this Act and the rules made thereunder or the terms and conditions of the certificate of registration granted under this Chapter or licence granted under section 5 of a promoter or an estate agent are duly complied with, the competent authority may inspect or cause to be inspected, at any time during business hours, any accounts or records of a promoter or an estate agent relating to such business.

# **Chapter IV**

## **Miscellaneous Provisions**

## **32. Constitution of Punjab Urban Development Fund.**

- [(1) Every promoter to whom a licence has been granted under section 5 to develop a colony or who stands exempted or to whom exemption is granted under section 44, shall deposit service charges at the rate of rupees three per square meter of the plotted area proposed to be developed by him as residential, commercial or industrial (excluding the area used by the public for general purpose) into a colony in lumpsum, prior to grant of licence and the promoter shall in turn be entitled to pass on the service charges so paid by him to the allottees.] [Substituted by Punjab Act No. 21 of 2014, dated

27.8.2014.](2)The amount of service charges levied under sub-section (1) if not paid within the stipulated period, shall be recoverable as arrears of land revenue.(3)The amount of service charges deposited by the promoter under sub-section (1) or recovered under sub-section (2) shall constitute a fund to be called "the Punjab Urban Development Fund" (hereinafter referred to as the Fund) and shall vest in such Authority as the State Government may notify in this behalf and shall be administered by that Authority.(4)[ The Fund shall be utilized by the Authority notified under sub-section (3) for the benefit of the allottees, for development of the colonies to promote research and development, training and capacity building and up-gradation of infrastructure or apparatus in town and country planning and urban affairs, and for such other similar purposes, as may be prescribed.] [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.](5)The State Government shall publish annually in the Official Gazette the report of the activities financed from the Fund and the statement of accounts.

### **33. Appellate Authority and Appeals.**

(1)The State Government may, by notification in the Official Gazette, appoint an officer or an authority as appellate authority, (hereinafter referred to as appellate authority) with the power to decide appeals against the orders of the competent authority :Provided that the State Government may appoint as appellate authority more than one officer or authority and distribute the work among them in the manner it may deem fit;(2)Any person aggrieved by any order of the competent authority under this Act, may, within a period of thirty days of the communication of the order to him, prefer an appeal to the appellate authority in such form and manner as may be prescribed.(3)The appellate authority may, after giving an opportunity of being heard to the parties and to the competent authority, pass such order as deemed fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing, and the order of the appellate authority so passed shall be final, unless revised by the State Government under section 34.(4)In discharging its functions, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 (Central Act V of 1908) of a Civil Court while deciding an appeal.

### **34. Revision.**

- The State Government, either suo moto, or, on an application from any party aggrieved by any order within sixty days of the date of the communication to him of such order, may call for and examine the record of any proceedings disposed of by the competent authority, or the appellate authority, as the case may be, for the purpose of satisfying itself as to the correctness, legality or propriety of any proceedings and of any order passed therein, and may pass such order in relation thereto as it may deem fit :Provided that no order adverse to any person shall be passed without giving him an opportunity to show cause against such proposed order :Provided further that no revision application will be entertained when an appeal has been or could have been filed against the order.

### **35. Bar on Jurisdiction.**

- No civil court shall have any jurisdiction to entertain or decide any question relating to matters arising under this Act or the rules made thereunder and every order passed by the competent authority subject to appeal, or, revision, every order passed by the appellate authority subject to revision, and every order passed by the State Government in revision, shall be final and shall not be questioned in any court of law.

### **36. [ Offences and penalties. [Substituted by Punjab Act No. 21 of 2014, dated 27.8.2014.]**

(1) Any person or promoter or his agent registered under the Act, without reasonable cause, fails to comply with or contravenes the provisions of sections 3, 5, 6, 9 or 15 shall, on conviction, be punished with imprisonment for a minimum term of three years which may extend to seven years and with minimum fine of rupees two lac, which may extend to rupees five lac. (2) Any promoter who contravenes the provisions of section 9 by misusing any amount advanced or deposited with him for any purpose other than the purposes mentioned in section 9, shall, on conviction, be punished with imprisonment for a term which shall not be less than three years and with fine which shall not be less than two lac rupees. (3) Any promoter or estate agent who, without reasonable excuse, fails to comply with, or contravenes, any other provision of this Act or of any rule made there under, or does not pay the penalty imposed upon him by the competent authority, shall, if no other penalty is expressly provided for the offence, be punished on conviction, with imprisonment for a term not less than one year which may extend to three year and with a minimum fine of rupees ten thousand which may extend to rupees one lac. (4) Where an offence is committed under this Act by any Central Government or State Government or Municipality or Board or Authority or it is proved that the offence has been committed with the consent or connivance or is attributable to any neglect on the part of any officer or employee of the department of such Government or Municipality or Board or Authority, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this section shall render the officer, liable to any punishment under this Act, if such officer proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), it shall be lawful for a Judicial Magistrate of the First Class to pass on any person convicted of any offence under this Act, a sentence of imprisonment or of fine or both as provided in the relevant section of this Act, in excess of his powers under section 27 of the said Code. (6) The fine imposed under sub-sections (1), (2), (3) or (4) may be recovered as and arrear of land revenue and out of the fine so recovered, the Judicial Magistrate may award such amount as he deems fit to the person from whom the advance or deposit was obtained by the promoter or the estate agent, as the case may be.]

### **37. Offences by companies.**

(1) If the person committing an offence under this Act is a company, the company as well as every

person who at the time the offence was committed was in charge of, or, was responsible to the company for the conduct of business by the company, shall be liable to be proceeded against and punished accordingly. Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of or is attributable to any negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section, - (a) "company" means a body corporate and includes a development authority or public authority, a firm or other association of persons; and (b) "director" in relation to firm means a partner in the firm, and in relation to a development authority or public authority means a person who takes decisions on matters of policy in its affairs.

### **38. Prosecution and composition of offences.**

(1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the competent authority or any person authorised in this behalf by the competent authority. (2) The competent authority may, either before or after the institution of the proceedings for prosecution, compound any offence punishable by or under this Act subject to such conditions and restrictions as may be prescribed. (3) Where an offence has been compounded, the offender, if in custody, shall be released and no further proceedings shall be taken against him in respect of the offence compounded: [Provided that imposition of penalty, conviction and fine shall not be deemed to regularize the unauthorized constructions, buildings or colony: Provided further that without prejudice to the provisions of sections 36, 37 and sub-section (1) of this section, the competent authority after giving a notice of thirty days and affording a reasonable opportunity of being heard to the persons concerned, order to demolish or remove or stop construction or development of such unauthorized construction, building or colony and restore to its original state or to bring into conformity with the conditions, which have been violated and if such person fails to do so within a period of six weeks from the order, may himself take such measures, as may appear to him necessary to give effect to the order and the cost of such measure shall be recoverable from such person, as arrears of land revenue.] [Added by Punjab Act No. 21 of 2014, dated 27.8.2014.]

### **39. Structure to be demolished in certain cases.**

(1) Without prejudice to the provisions of this Act, the competent authority may, by notice, call upon any person who has committed a breach of [the provisions of section 5 or 20] [Substituted 'the provisions of Section 20' by Punjab Act No. 21 of 2014, dated 27.8.2014.] to show cause why the structure should not be demolished and if such person fails to show cause to the satisfaction of the competent authority within a period of fifteen days, the competent authority may pass an order requiring him to demolish the structure within sixty days from the date of the order. (2) If the order made under sub-section (1) is not complied with, within the period specified therein the competent authority may itself take such measures as it may deem fit to give effect to the order and the cost of such measures shall, if not paid on demand being made to it, be recoverable from such person as

arrears of land revenue.

#### **40. Indemnity.**

(1) No suit, prosecution or other legal proceedings shall lie against any officer or employee of the State Government or of the competent authority in respect of anything which is, in good faith, done or intended to be done in pursuance of this Act or the rules made thereunder.

#### **41. Delegation.**

- The State Government may, by notification, delegate all or any of its powers under this Act, except the power to make rules, to any officer subordinate to it subject to such restrictions and conditions as may be specified in such notification.

#### **42. Application of the Act to apartments already in existence.**

(1) This Act shall apply to apartments already in existence and agreements of sale of apartments or other properties made before the commencement of this Act. (2) As respects apartments which on the commencement of this Act have already been constructed or converted, the provisions of sections 12, 13 and 15 shall apply with the following modifications, that is to say, - (a) in section 12, if the date specified or agreed to has already passed at the commencement of this Act then the promoter shall give possession within three months from such commencement, and thereafter the promoter shall be liable on demand to refund the amounts on the terms and conditions provided in the said section; (b) in section 13, in sub-section (1), the words and figure "after the agreement referred to in section 6 is registered" shall be read as if the words "after the commencement of this Act" had been substituted; and (c) in section 15, the words "within three months from the date of giving possession" shall be read as if the words "within three months from the commencement of this Act" had been substituted.

#### **43. Over-riding effect of this Act.**

(1) The provisions of this Act shall take effect, notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract. (2) The provisions of the Transfer of Property Act, 1882 (Central Act No. IV of 1882) shall, in so far as they are not inconsistent with the provisions of this Act, apply to every apartment together with the percentage of undivided interest in the common areas and facilities appurtenant to such apartment, as they apply in relation to any immovable property.

#### **44. Exemption.**

(1) Subject to the provisions of section 32, nothing in this Act shall apply if the promoter is, - (a) a local authority or statutory body constituted for the development of land or housing; or (b) a company or a body created for development of land or housing or promotion of industry wholly owned and

controlled by the State Government or the Central Government.(2)If the State Government is of the opinion that, the operation of any of the provisions of this Act, causes undue hardship, or circumstances exist which render it expedient to do so, it may exempt, by a general or special order, any class of persons or areas from all or any of the provisions of this Act, subject to such terms and conditions as it may impose.

#### **45. Power to make rules.**

(1)The State Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-(a)the particulars as respects the design and the materials to be used in the construction of the building and the other information and documents to be disclosed, the manner in which disclosure is to be made and the documents of which true copies shall be given by the promoter under clauses (f), (m) and (n) of sub-section (2) of section 3;(b)the other matters to be disclosed in an advertisement or prospectus under sub-section (2) of section 4;(c)the form of the application, the information to be attached with the application and the fee to be paid for the grant of permission under sub- section (1) of section 5;(d)the authority to be prescribed for giving opinion to the competent authority under sub-section (2) of section 5;(e)the form of licence to be issued and the agreement to be entered into under sub-section (3) of section 5;(f)the fee to be paid for renewal of licence under sub-section (4) of section 5;(g)the criteria of the economically weaker sections of society and the manner of reserving residential apartments or plots for weaker sections of society and the conditions subject to which the reservation is to be made under sub-section (2) of section 3 and under sub-section (9) of section 5;(h)the manner of recovering charges under sub-section (13) of section 5;(i)the form for the agreement of sale and the particulars to be contained in and the documents or copies thereof to be attached to such agreement under sub-section (1) of section 6;(j)the rate of interest under sub-section (2) of section 6;(k)the fee to be paid under sub-section (2) of section 11;(l)the particulars to be included in respect of conveyance deed of apartment under section 15;(m)the form of application under sub-section (1) of section 16;(n)the matters to be prescribed under section 20;(o)the form in which an application for registration of promoters and estate agents should be made and the fee for such application form for maintenance of registers and the form of registration certificate under sub- section (2) of section 21;(p)the qualifications for a promoter and for an estate agent and the amount and manner of security to be furnished under section 22;(q)the fee for renewal of registration under section 23;(r)the form and manner of maintaining accounts, registers and records by a promoter or estate agent under sub-section (1) and maintenance of register by the competent authority under sub-section (2) of section 28;(s)the manner in which the accounts should be audited and certified by a chartered accountant under section 29;(t)the periodical returns which a promoter or estate agent has to submit to the competent authority under section 30;(u)the purposes to be prescribed under sub-section (4) of section 32;(v)form and manner in which an appeal should be preferred to the appellate authority under sub-section (2) of section 33; and(w)any other matter which has to be or may be prescribed by rules.(3)Every rule made under this section shall be laid as soon as may be, after it is made, before the House of the State Legislature, while it is in session for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of



the session in which it is so laid or the successive sessions aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

## **46. Repeal and Savings.**

(1)The Punjab Regulation of Colonies Act, 1975 (Punjab Act No. 10 of 1975) is hereby repealed.(2)The repealing of the Act under sub-section (1) shall not affect -(i)the previous operation of the Act so repealed or anything duly done or suffered thereunder;(ii)any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed;(iii)any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed;(iv)any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced or any such penalty, forfeiture and punishment may be imposed as if the aforesaid Act had not been repealed.(3)Notwithstanding such repeal, anything done or any action taken under the Act so repealed including any notification, order, notice issued, application made, or permission granted, which is not inconsistent with the provisions of this Act shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act was in force at the time such thing was done or action was taken and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act.