

West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters), Act, 1993

WEST BENGAL

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Act 20 of 1993

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West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters), Act, 1993 West Bengal Act No. 20 of 1993 with effect from 09.08.1995

038.

Notification No. 397-L., dated 9th March, 1994. The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information: An Act to provide for the regulation of promotion of construction, and transfer of building by promoters in West Bengal. Whereas it is expedient in the public interest to provide for the regulation of promotion of construction and transfer of building by promoters in West Bengal; It is hereby enacted in Forty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:

1. Short title, extent and commencement.

(1) This Act may be called the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993. (2) It extends to the whole of West Bengal. (3) It shall come into force in such area or areas, and on such date or dates, as the State Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas.

2. Definitions.

In this Act, unless the context otherwise requires, (a) "apartment" means an apartment as defined in the West Bengal Apartment Ownership Act, 1972 (West Bengal Act No. 16 of 1972); (b) "block" means a block of flats; (c) "building" includes a flat or block; (d) "contractor" means any person who undertakes a contract for construction of any building; (dd) ["Family", in relation to person, means

the individual, the wife or husband, as the case may be, of such individual, his parents, sons, daughters, brothers, sisters;] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.](e)"flat" means a separate residential unit, whether self contained or not, used or intended to be used for any of the purposes referred to in sub-clauses (a) to (i) of clause (2) of section 390 of the Calcutta Municipal Corporation Act, 1980 (West Bengal Act LIX of 1980), and includes an apartment;(f)"prescribed" means prescribed by rules made under this Act;(g)"promoter" means a person who constructs or causes to be constructed a building on a plot of land for the purpose of transfer of such building by sale, gift or otherwise to any other person or to a company, co-operative society or association of persons, and includes (i)his assignee, if any,(ii)the person who constructs, and the person who transfers by sale, gift or otherwise, the building, if the two are different persons,(iii)[omitted]; [Omitted by Act No. 48 of 1994.](iv)[omitted]; [Omitted by Act No. 48 of 1994.](v)any board, company, corporation, firm or other association of persons, established by or under any law for the time being in force:[Provided that notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, a person shall be deemed to be a promoter if he constructs or causes to be constructed, a building with a height of 9.5 metres or more and on a plot of land measuring three hundred square metres or above or if he constructs or causes to be constructed a building consisting of flats in excess of the requirements of the members of his family,] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.](h)"purchaser" means any person who, under section 7, enters into an agreement with the promoter for the purchase of a flat;(i)"Registrar", means the Registrar as defined in the West Bengal Co-operative Societies Act, 1983 (West Bengal Act No. 45 of 1993);(j)[the expression "to construct a building" with its grammatical variation means-] [Substituted, by Act 35 of 2002, w.e.f. 01.09.2003.](i)to construct a new building, or(ii)to re-construct a building, or(iii)to convert a building, or any part of a building, not being a flat or block, into a flat or block,in accordance with the provisions of the Calcutta Municipal Corporation Act, 1980 (West Bengal Act 59 of 1980), or the Howrah Municipal Corporation Act, 1980 (West Bengal Act 58 of 1980), or the Siliguri Municipal Corporation Act, 1990 (West Bengal Act 30 of 1990), or the Asansol Municipal Corporation Act, 1990 (West Bengal Act 31 of 1990), or the Chandernagore Municipal Corporation Act, 1990 (West Bengal Act 32 of 1990), or the Durgapur Municipal Corporation Act, 1994 (West Bengal Act 53 of 1994), or the West Bengal Municipal Act, 1993 (West Bengal Act 22 of 1993), or the West Bengal Panchayat Act, 1973 (West Bengal Act 41 of 1973), or the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act 13 of 1979), as the case may be, and the rules made thereunder.

3. Registration and permission for construction.

(1) Every promoter who constructs or intends to construct in any area in which this Act comes into force a building for the purpose of transfer of such building by sale, gift or otherwise, shall at least ninety days before the commencement of the construction of such building in such area, make an application to such officer of the State Government (hereinafter referred to as the authorised officer) as the State Government may appoint, for registration of his name and for permission for construction of such building. The application shall be in such form, and shall be accompanied by such fee, as may be prescribed:Provided that notwithstanding anything contained in this Act or in any other law for the time being in force, in the case of any building under construction on the date immediately before the date of coming into force of this Act by any promoter, [such officer not below

the rank of Assistant Engineer, specially authorised by the State Government,] [Substituted, by Act 35 of 2002, w.e.f. 01.09.2003.], [and have power to enter upon or take ingress to any flat of the building] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.] at any time of the day without prior intimation to the promoter for investigation of any complaint from any purchaser with regard to unlawful or defective construction or use of sub-standard materials, and such officer may, at the conclusion of such investigation, bring to the notice of the promoter the defects of construction, if any, for rectification within such period as may be specified by him. If the promoter fails to rectify the defects within the period as aforesaid, such officer may declare such building to be unsafe or dangerous for human habitation, if the construction of such building so warrants.(2)Every such application shall be accompanied by a statement containing the following particulars and documentary evidences where necessary(a)detailed description of land with site plan;(b)the nature of the [xxx] [Omitted by Act 35 of 2002. w.e.f. 01.09.2003.] title to the land (copy of title deed to be annexed);(c)details of the agreement between the owner of the land and the promoter authorising the latter to undertake the construction of building (copy of [xxx] [Omitted by Act 35 of 2002. w.e.f. 01.09.2003.] agreement to be annexed);(d)the nature of encumbrances on the land, including the right, title, interest or claim of any other person in or over such land;(e)the total covered floor area, the number of flats proposed to be constructed, the approximate size of each flat and the facilities including common facilities likely to be made available to the purchasers by the promoter;(f)sanctioned plan for the construction of building under any law for the time being in force or, where the plan is not sanctioned at the time of making the application under sub-section (1), an undertaking by the applicant to the effect that the plan will be submitted by him as soon as it is sanctioned:Provided that the name of the applicant shall not be registered, and the applicant shall not be granted permission to construct the building, under sub-section (5) until the sanctioned plan is submitted;(g)detailed specifications of the construction of building as approved by any competent authority under any law for the time being in force;(h)the estimated expenditure for the construction of building and the source from which the expenditure shall be financed;(i)details of financial agreement made with any bank or other financial institution, and of legal safeguards taken, if any, for the construction of building, or the transfer of building by sale, gift or otherwise;(j)details of advance payment or deposit to be taken by the promoter from the purchaser:Provided that no advance payment or deposit shall be taken by any promoter before his name is registered under sub-section (5);(k)the period within which or the date on which the possession of flats is proposed to be made over to the purchasers;(l)copies of agreements entered into or proposed to be entered into with the purchasers;(m)the name of architect or engineer or any other person authorised to submit plan under any law for the time being in force, or the name of firm or company competent to submit plan, who has prepared the plan and the estimates of the proposed construction of building together with address;(n)the name and address of the contractor or contractors proposed to be engaged for the construction of building:Provided that if and when there is any change of contractor proposed to be engaged or actually engaged before or after the commencement of the construction of any building, as the case may be, the promoter shall forthwith inform the authorised officer of the name and address of such contractor;(o)such other particulars as may be prescribed.(3)Every promoter shall make a separate application for the construction of building on separate plot of land or for the construction of separate building:[xxx] [Proviso omitted by Act 35 of 2002, w.e.f. 01.09.2003.][Provided that] [Substituted, by Act 35 of 2002, w.e.f. 01.09.2003.] no such application shall be refused without giving the promoter a reasonable opportunity of being heard.(4)The name

of a promoter shall not be registered if (a)he is of unsound mind and stands so declared by a competent authority; or(b)he is an undischarged insolvent; or(c)he, being a discharged insolvent has not obtained from the court having jurisdiction a certificate that his insolvency was caused by misfortune without any misconduct on his part; or(d)he has been convicted of an offence of criminal breach of trust; or(e)he is otherwise incompetent to make any contract under any law for the time being in force; or(f)the certificate of registration granted to him previously for construction of any other building was cancelled under section 4 of this Act.(5)The authorised officer shall, on receipt of an application under sub-section (1), scrutinize the application and the accompanying documents and, on being satisfied that the application complies with the provisions of this Act and the rules made thereunder, register the name of the applicant and, by an order, grant him permission to construct the building or may, for reasons to be recorded in writing, by an order refuse to register the name of the applicant and to grant him permission to construct the building:Provided that no order refusing to register the name of an applicant and to grant him permission to undertake the construction of building shall be made without giving the applicant a reasonable opportunity of being heard:Provided further that every application under sub-section (1) [accompanied by all relevant documents and particulars, referred to in sub-section (2)] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.] shall be disposed of by the authorised officer within a period of three months from the date of receipt of such application.(6)The name of every promoter registered under sub-section (5) shall be entered in a register to be maintained by the authorised officer in such form as may be prescribed.(7)The promoter, whose name has been registered under sub-section (5), shall be granted a certificate of registration in such form as may be prescribed and the permission to undertake the construction of building under that sub-section shall be in conformity with the sanctioned plan for the construction of building.(8)A copy of the order granting permission under sub-section (5) shall be sent by the authorised officer to the authority who has sanctioned the plan for construction of building or, as the case may be, for conversion of building or any part of building under any law for the time being in force.

3A. [Stopping construction, or demolition, of unauthorised building. (1) The authorised officer, if he is satisfied that a building is being constructed in violation of any provision of this Act, may direct the concerned local body or the District Magistrate or the Commissioner of Police or the Chief Engineer, Housing Directorate or any other authority as may be prescribed, without prejudice to any other law for the time being in force, to stop construction of such building or to demolish such building after giving the promoter a notice and an opportunity of being heard in the manner as may be prescribed.

(2)The cost of demolition of such building shall be realised from the concerned promoter under the provisions of the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913)] [Inserted by Act 35 of 2002, w.e.f. 01.09,2003.]

4. Period of validity of certificate of registration and cancellation thereof.

[(1) The certificate of registration granted to a promoter under section 3 shall, subject to the provisions of sub-section (2) of this section, remain valid for a period of ten years from the date of issue of such certificate: Provided that the authorised officer may, from time to time, renew the certificate of registration for a period not exceeding five years at a time: Provided further that the application for renewal of the certificate of registration shall be in such form, and shall be accompanied by such fee, as may be prescribed.] [Substituted by Act 35 of 2002, w.e.f. 01.09.2003](2) Notwithstanding anything contained in sub-section (1), a certificate of registration may be cancelled by the authorised officer by an order in writing if (a) the statement or any part thereof furnished by the promoter under sub-section (2) of section 3 is subsequently found to be false or incorrect; or (b) the promoter becomes subject to any of the disqualifications mentioned in sub-section (4) of section 3; or (c) [the promoter, in course of construction of any building, uses sub-standard materials or violates any rule or established practices regulating the construction of building; or] [Substituted by Act 35 of 2002, w.e.f. 01.09.2003](d) [the promoter has been convicted by the competent court of law for violation of any provision of this Act:] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.] Provided that no certificate of registration shall be cancelled without giving the promoter an opportunity of being heard.

4A. [Period of validity of permission for construction of a building.- The permission for the construction of a building granted to a promoter under section 3, shall remain valid for a period of five years from the date of grant of such permission;

Provided that the authorised officer on an application by the promoter may, extend the period of validity of the permission for construction of building, however that the total period of such extension shall not exceed two years: Provided further that, if the promoter cannot complete the construction of such building within the total period of seven years of the circumstances beyond his control, he may make an application to the State Government for extending period of validity of permission for construction of such building, and the State Government may, on receipt of such application, extend the said period of seven years by such further period as it thinks fit]. [Inserted by Act 35 of 2002, w.e.f. 01.09.2003]

5. Appeal.

(1) Any promoter aggrieved by an order of the authorised officer under sub-section (5) of section 3 or sub-section (2) of section 4 may, within thirty days from the date of the service of the order, prefer an appeal to such authority as may be prescribed. (2) The manner in which an appeal shall be filed and the manner of deciding the appeal shall be such as may be prescribed.

6. Adjudication of disputes.

Any purchaser may, if he has any dispute regarding the purchase of any flat, make an application in such form as may be prescribed to such officer as the State Government may appoint for adjudication of the dispute in such manner as may be prescribed.

6A. [Revision. The State Government may, either suo motu or on an application by any party aggrieved by any order under this Act within sixty days from the date of such order, call for, and examine, the records of any proceedings disposed of by the authorised officer or by the authority referred to in sub-section (1) of section 5 or by the officer referred to in section 6, as the case may be, for the purpose of satisfying itself as to the correctness, legality or propriety of any such 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 the proposed order: Provided further that no application for revision under the section shall be entertained where an appeal has been or could have been preferred under section 5 or where an application for adjudication has been or could have been made under section 6.]

[Inserted by the West Bengal, Act No. 48 of 1994, published in the Calcutta Gazette, Extraordinary, Part III, section 3, dated 17.01.1995.]

7. Agreement and registration thereof.

Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, a promoter shall, before he takes any advance payment or deposit, [as may be prescribed] [Substituted, by Act 35 of 2002, w.e.f. 01.09.2003.], enter into a written agreement for sale with each person who intends to purchase, such flat [xxx] [Omitted by *ibid.*], and such agreement shall contain such particulars, and shall be accompanied by such documents or copies thereof, as may be prescribed:[* * *] [Omitted by *ibid.*]

8. Alteration or addition without consent of transferee and rectification of defect.

(1) No promoter shall, after he has been granted under sub-section (5) of section 3 permission to construct a building and after an agreement under section 7 has been entered into by him with any person who intends to purchase a flat, make, without prior consent of such person, (i) any alteration in the structure of such flat; or (ii) make any alteration in the structure of a building or construct any additional structure; Provided that every alteration in the structure of such flat or building or every construction of such additional structure shall be done with the prior permission of the authority which sanctioned the original plan of such flat or building and with due regard to the detailed

specifications of the construction of building as approved by the competent authority under any law for the time being in force.(2)Subject to the provisions of sub-section (1), a building shall be constructed and completed in accordance-with the plan referred to in clause (f), and the specifications referred to in clause (g), of sub-section (2) of section 3. If any defect in the construction of the building or in the material used or if any unauthorised change in the construction of the building is brought to the notice of the promoter by the person or persons taking possession of the building within a period of one year from the date of taking such possession, it shall either be rectified, wherever possible, by the promoter without charge to the person or persons who agreed to purchase any flat or flats or such person or persons shall be paid a reasonable compensation for such defect or change.(3)Where there is a dispute as respects any defect in the construction of the building or in the material used or any unauthorised change in the construction of the building or the amount of reasonable compensation payable in respect of such defect or change which is not rectified by the promoter or is incapable of being rectified, or where there is a dispute as to whether it is reasonably possible for the promoter to rectify such defect or change [notwithstanding anything contained in any other Act, the matter shall, on payment of such fee by the purchaser in such manner as may be prescribed, be referred forthwith for an enquiry, to the Chief Engineer in the Housing Directorate under the Housing Department of the State Government or to such other officer of the State Government not below the rank of Executive Engineer, as the State Government may appoint or to the concerned local body or to any other experts as may be prescribed, who, after necessary investigation into the matter, shall submit a report with specific views to the authorised officer within a period of six months from the date of payment of the fee referred to above and the authorised officer shall, on the basis of the enquiry reports received from any of the authorities as aforesaid, dispose of such dispute within three months thereafter:Provided that such dispute is to be brought to the notice of the authorised officer within a period of two years from the date of taking possession of the building, and the decision of the authorised officer thereof shall be final.] [Substituted by Act 35 of 2002, w.e.f. 01.09.2003.](4)[* * *] [Ommitted by ibid.](5)[The Chief Engineer or the officer appointed under sub-section (3) or the local body or the experts, as the case may be, entrusted for enquiry into the disputes referred to in sub-section (3), shall have access to the site of any building under construction by any promoter, whose name has been registered under sub-section (5) of section 3, at any time of the day without prior intimation to him for inspection of the work of construction or for investigation of any complaint from any purchaser or other person or from any other source with regard to unlawful or defective construction or use of sub-standard materials, as may be referred to him by the authorised officer.] [Substituted by Act 35 of 2002, w.e.f. 01.09.2003]

9. Bar to execution of mortgage etc. and refund of money, if such mortgage is executed or for failure to give possession.

(1) No promoter shall, after he enters into an agreement under section 7, mortgage or create a change on the flat or the land on which such flat is constructed without prior consent of the person or persons with whom such agreement is entered into.(1a)[A promoter who has already created a change on the land and on the flat proposed to be constructed on such land by injecting bank finance or finance from other sources, shall deliver possession of such flat with right, title and interest free from all encumbrances, on full and final settlement of the consideration money by such

purchaser.] [Inserted by Act 35 of 2002. w.e.f. 01.09.2003.](2)If any promoter (a)executes such mortgage or creates such change without the prior consent of the person or persons as aforesaid after the agreement is registered under section 7, or(b)fails to give possession of a flat, duly completed, by the date specified in the agreement or by the further date agreed to by the parties, or(c)is unable, for reasons beyond his control or beyond the control of his agent, to give possession of the flat by the date specified in the agreement under section 7 or by the further date agreed to by the parties, and a period of three months thereafter, or a further period of three months if such reasons still exist, has elapsed,the promoter shall, without prejudice to any other remedies to which he may be liable under this Act or any other law for the time being in force, be liable on demand to refund [within a period of three months] [Inserted by Act 35 of 2002. w.e.f. 01.09.2003.] the amount already received by him in respect of such flat with simple interest at the current bank rate from the date of receipt of such amount till the date on which the amount and the interest thereon is refunded, and the amount and the interest shall, subject to any prior encumbrance, be a charge on the land and the building thereon, if any, to the extent of the amount due:Provided that (a)if the promoter wilfully delays the construction of the flat and does not complete the construction thereof within the period specified in the agreement under section 7 (hereinafter referred to as the specified period) and gives possession of the flat to the party after the expiry of the specified period, he shall pay compensation 2 which shall be adjusted against the price of the flat as such rate and] in such manner as may be prescribed, or(b)if the promoter delays the construction of the flat beyond the specified period without any prima facie reason therefor, and the party expresses its unwillingness to take possession of the flat as and when completed and claims refund of the advance payment or deposit, the promoter shall refund the advance payment or deposit and shall pay compensation 2[at the rate as may be prescribed, or](c)[after completion of construction within the specified date, if any party is unable to pay consideration money to the promoter and does not take possession of the flat within a period of three months from the date of obtaining completion certificate from the authority who sanctioned the building plan, the promoter may demand compensation at such rate as may be prescribed.] [Inserted by Act 35 of 2002. w.e.f. 01.09.2003.]

10. [Promoter to take steps for formation of apartment owners' association or cooperative society.- After obtaining occupancy certificate for the building and within two months after a minimum number of persons required to form an apartment owners' association under the West Bengal Apartment Ownership Act, 1972 (West Bengal Act 16 of 1972), or a cooperative society under the West Bengal Co-operative Societies Act, 1983 (West Bengal Act 45 of 1983), have taken flats, the promoter shall take steps for the formation of an association of apartment owners or cooperative society, as the case may be, and the promoter shall join as member in respect of the flat or flats which has or have not been taken. Nothing in this section shall affect the right of the promoter to dispose of the remaining flats in accordance with the provisions of this Act.] [Substituted, by Act 35 of 2002, w.e.f. 01.09.2003.]

11. Promoter to convey title etc. and to execute documents according to agreement.

Every promoter [as well as the owner of the land] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.] shall take all necessary steps to complete his title and convey to the organization of persons taking flats, which is registered as a co-operative society [or an apartment owners' association, as the case may be,] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.] his right, title and interest in the land and the building, and shall execute all relevant documents therefor in accordance with the agreement under section 7, and if no period for the execution of the conveyance is agreed upon, he shall execute the conveyance within the prescribed period and shall deliver all documents of title relating to the property which may be in his possession or power.

12. Insurance against loss or death.

(1) A promoter shall insure with any general insurance company and obtain an insurance policy or policies covering the liability of any loss or death caused by any defect in land or building, and shall keep the authorised officer informed of payment of premium from time to time against such insurance policy or policies. (2) The policy or policies as aforesaid shall cover the risks extending not less than ninety per cent of the value or estimated value of building. (3) The insurance [shall cover risks for a period of not less than five years from the day of receipt of completion certificate from the authority who sanctioned the building plan.] [Substituted by Act 35 of 2002. w.e.f. 01.09.2003.] (4) The liability of the insurance company shall extend up to the value of life and property lost or bodily injuries suffered but shall not exceed the insured sum. (5) For determining the quantum of value of life and property lost or bodily injuries suffered, the State Government may, by order, constitute a Tribunal headed by a Judicial Officer having experience of not less than seven years in judicial service and may also, by such order or subsequent order, provide for assessors, not less than two in number, for assisting the Tribunal in such determination. Explanation 1. For the purposes of this section, (a) "loss" shall include damages of a building or part thereof or any other properties lawfully stored therein or bodily injuries suffered by any person, whether a resident of such building or an outsider; and (b) "death" shall include death to any person, whether a resident of a building or an outsider, caused by any defect in land or such building. Explanation II. For death or bodily injuries, the value of loss for the purposes of compensation shall be determined in accordance with the provisions of the Motor Vehicles Act, 1988 (59 of 1988). (6) [In the event of death of the insured promoter or wind up of the promoting company or in case of non-availability of promoter(s), the registered co-operative society or the apartment owners' association, formed by, and for, the benefit of the owners of the concerned buildings, may act on behalf of the insured promoter with the permission of the authorised officer for recovery of claim in case of any death or loss caused by any defect in land or building.] [Inserted by Act 35 of 2002. w.e.f. 01.09.2003.]

12A. [Bar on jurisdiction of court. (1) No civil court shall have any jurisdiction to entertain or decide any question relating to matters arising under any provision of this Act or the rules made thereunder.

(2) Every order passed by the authorised officer which is subject to appeal or revision, every order passed by the authority referred to in sub-section (1) of section 5, and every order passed by the officer referred to in section 6, which is 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.] [Inserted by the West Bengal Act XLVIII of 1994, published in the Calcutta Gazette Extraordinary, Part III, Section 5, dated 17.01.1995.][Section 13. * * *] [Omitted by Act 1 of 2002, w.e.f. 01.09.2003.]

13A. [Offences.

(1) Any offence committed by a promoter by violation of the provisions of sub-section (1) of section 3, section 7, sub-sections (1) and (2) of section 8, section 9, and section 11, of this Act shall be cognizable and non-bailable offence.(2) Any offence committed by a promoter by violation of the provisions under section 10, and section 12, of this Act shall be non-cognizable and bailable offence.

13B. Penalties.

(1) Any promoter who fails to comply with the provisions under sub-section (1) of section 3 of this Act or the rules made thereunder, shall, on conviction, be punished with imprisonment of either description for a term not being less than six months which may extend to five years or with fine which may extend to fifty thousand rupees or with both: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding fifty thousand rupees.(2) Any promoter who fails to comply with, or contravenes, the provisions of section 7, sub-sections (1) and (2) of section 8, section 9, or section 11, of this Act, or the rules made thereunder, shall on conviction, be punished with imprisonment of either description for a term, not being less than three months which may extend to four years or with fine which may extend to twenty-five thousand rupees or with both: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding twenty-five thousand rupees.(3) Any promoter who fails to comply with, or contravenes, the provisions of section 10 or section 12 of this Act or the rules made thereunder, shall, on conviction, be punished with imprisonment of either description for a term, not being less than three months, which may extend to three years or with fine which may extend to ten thousand rupees or with both.(4) Any person who violates the provisions of any other section of this Act shall, on conviction, be punished with imprisonment of either description for a term, not being less than one month, which may extend to two years, or with fine which may extend to five thousand rupees or with both.] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.]

14. Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.(2) Notwithstanding anything contained in sub-section (1),

where any offence under this Act been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. For the purpose of this section, (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

15. Power to make rules.

(1) The State Government may, after previous publication, make rules for carrying out the purposes 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 form of the application referred to in sub-section (1) of section 3, the particulars to be mentioned therein and the fee to be paid therefor; (b) the form of register to be maintained under sub-section (6) of section 3; (c) the form of the certificate of registration referred to in sub-section (7) of section 3; (d) the manner of the service of an order of the authorised officer; (e) the authority to which, and the manner in which, an appeal under section 5 shall be filed and the manner of deciding the appeal; (f) the particulars and the documents to be attached with the agreement referred to in section 7; (g) the period within which a conveyance shall be executed under section 11; (h) any other matter which may be or is required to be prescribed.

16. [Exemption.] [Substituted by the West Bengal Act No. 48 of 1994, published in the Calcutta Gazette, Extraordinary, Part III, section 5, dated 17.01.1995.] Notwithstanding anything contained elsewhere in this Act, the State Government may, if it 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, exempt, by a general or special order, [any person or] [Inserted by Act 35 of 2002, w.e.f. 01.09.2003.] any class of persons or areas from all or any of the provisions of this Act, subject to such terms and conditions [as may be prescribed]. [Substituted, by ibid.]

17. Repeal and saving.

(1) The West Bengal Apartment (Regulation of Construction and Transfer) Act, 1972 (West Bengal Act No. 17 of 1972), is hereby repealed. (2) Unless a different intention appears, such repeal shall not (a) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or (b) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or (c) affect any investigation, legal proceeding or remedy, in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Act had not been passed.