

# **West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Rules, 1995**

WEST BENGAL

India

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### **Rule**

### **WEST-BENGAL-BUILDING-REGULATION-OF-PROMOTION-OF-CONSTRUCTION-OF-1995**

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West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Rules, 1995  
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### **039.**

Notification No. 244-HIV/IR-4/93 Pt., dated, Calcutta, the 29th June, 1995. In exercise of the power conferred by section 15 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 (West Bengal Act No. 20 of 1993), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of section 15 of the said Act, the following rules:

### **1. Short title and commencement.**

(1) These rules may be called the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Rules, 1995. (2) They shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### **2. Definitions.**

(1) In these rules, unless the context otherwise requires, (a) "the Act" means the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 (West

Bengal Act No. 20 of 1993);(b)"application authority" means an officer superior in rank to the authorised officer as may be appointed by the State Government under sub-section (1) of section 5 of the Act;(c)"authorised officer" means an officer not below the rank of Deputy Magistrate and Deputy Collector, or any other officer, as may be appointed by the State Government by notification in the Official Gazette;(d)"Form" means a form appended to these rules;(e)"State Government" means the Government of West Bengal in the Department of Housing.(2)Words and expressions used in these rules but not defined shall have the same meaning as are respectively assigned to them in the Act.

### **3. Form, particulars and fee for registration.**

[(1) The form for application for registration under section 3 of the Act shall be in Form A and shall be accompanied by a fee of r 2000 for each application, which may be deposited through T. R. Form No. 7 in the Reserve Bank of India or in the Treasury or in the State Bank of India under appropriate head of account.] [Substituted by Notification No. 675-HIV/3p-2/2000, dated 16.09.2003.](2)Particulars of such application with subsequent additions and alterations shall be maintained in a register in Form B.(3)The registration certificate shall be issued in Form C.

### **4. Permission for construction.**

(1) An application for permission to construct any block or building or flat or to convert a building into flats shall be in Form D.(2)[ The application shall be accompanied by a copy of registration certificate issued in terms of sub-rule (1) of rule 3 and a fee of Rs. 10,000 where the estimated expenditure for construction to be undertaken does not exceed Rs. 50 lakhs or Rs. 15,000 where such expenditure exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore or Rs. 20,000 where such expenditure exceeds Rs. 1 crore, which may be deposited through T.R. Form No. 7 in the Reserve Bank of India or in the Treasury or in the State Bank of India under appropriate head of account.] [Substituted, by Notification No. 675-HIV/3p-2/2000, dated 16.09.2003.](3)Such permission for construction shall be given in Form E.

### **5. Service of process.**

Service of all processes shall be delivered by hand or by registered post.

### **6. Appeal.**

(1) The memorandum of appeal under section 5 of the Act shall be preferred before the appellate authority in Form F together with a copy for service on the concerned authorised officer.(2)The memorandum of appeal shall contain a copy of the order of the authorised officer.(3)On receipt of the memorandum of appeal, the appellate authority shall call for the relevant records within 30 days from the concerned authorised officer and shall fix a date and time for hearing and shall notify the same to the appellant who may represent himself personally or by an authorised representative.(4)After hearing the appellant or his authorised representative, the appellate

authority shall pass an order in writing, and shall cause service of copies thereof free of cost on the appellant within a fortnight from the date of final order.(5)After disposal of appeal, the appellate authority shall forthwith return the records along with the copy of the order to the concerned authorised officer.(6)The absence of the appellant or his authorised representatives shall not be a ground of adjournment of hearing but the appellate authority may adjourn the hearing for sufficient reasons or consider the materials on record and dispose of the appeal.(7)When the appeal is allowed by the appellate authority, the authorised officer, on getting back the records along with a copy of that order, shall comply with the same.

## **7. Procedure for adjudication of disputes.**

(1) The application for adjudication of dispute under section 6 of the Act shall be preferred in Form G before the authorised officer.(2)On receipt of such application, the authorised officer shall furnish the promoter with a copy of such application fixing a date for a written reply, if any.(3)The authorised officer shall thereafter fix a date of hearing and shall notify the same to the applicant and the promoter who may represent himself personally or by an authorised representative.(4)The authorised officer, after hearing the parties, shall come to a decision which shall be binding on both parties.

## **8. Particulars to be incorporated in, and the documents (or copies) to be attached to, the deed of agreement under section 7 of the Act.**

The following particulars shall be incorporated in, and documents (or copies) shall be attached to, the deed of agreement between the promoter and the purchaser:(i)particulars of land (e.g. location, measurement, ownership, promoter's interest in land, encumbrances, if any);(ii)location of the flat sufficient for identification;(iii)total covered area, carpet area, height, description with measurement of each room, bath and verandah, constructional particulars (e.g., mortar, mosaic, colour, etc.) and other necessary details;(iv)particulars of electrical and sanitary arrangements;(v)particulars of items of common use (i.e., stairs, lift, garden, playground, recreation hall, caretaker's room, pump, central air-conditioning, parking space, and fire fighting arrangement);(vi)total price payable for the flat;(vii)(a)amount of advance to be paid,(b)dates and amount of each instalment for payment of such advance,(c)particulars of interest payable in default of any instalment of such advance, and(d)provision for refund of the amount advanced on the purchaser's refusal in writing to take the flat;(viii)date and particulars of payment of the balance amount of price;(ix)particulars of site plan and building plan duly approved by the appropriate authority;(x)particulars of permission for construction under section 3 of the Act;(xi)proposed date of execution of the conveyance of the flat by the promoter to the purchaser;(xii)proposed date of making over of possession of the flat by the promoter.

## **9. Fee payable for inquiry by the Chief Engineer in the Housing Directorate under the Department of Housing under sub-section (3) of section 8.**

The fee payable to the Chief Engineer in the Housing Directorate under the Department of Housing of the State Government or such other officer, not below the rank of Executive Engineer, as may be appointed by the State Government under sub-section (3) of section 8 of this Act shall be 50 per flat. No complaint shall be entertained without the requisite fee payable in cash or by bank draft in favour of the Chief Engineer as aforesaid.

## **10. Procedure for compensation to the purchaser.**

(1) The application for compensation in terms of section 8 of the Act shall be made by the purchaser to the authorised officer. (2) The authorised officer, in the manner laid down in rule 7, shall give his decision on the said application and such decision shall be binding on both parties.

## **11. Procedure for compensation in case of failure of the promoter to give possession.**

The extent of compensation to be claimed by the applicant shall be as per section 9 of the Act and he shall apply to the authorised officer by an application containing all particulars and papers in respect of advance paid to the promoter with date and the terms of agreement and the period of blocking. The amount of compensation as claimed by the applicant shall be examined by the authorised officer. On his being satisfied, an order shall be issued to the promoter concerned for adjustment of the said amount against the value of the respective flat for the purchase of which the applicant entered into an agreement with the promoter. The order shall be binding on the promoter and, in the case of defiance, it shall be an offence punishable under section 13 of the Act.

## **12. Period within which a conveyance is to be executed under section 11.**

In the absence of any agreement fixing the last date for conveying the right, title and interest in the land and building between the promoter and the purchaser, the promoter shall convey his right, title and interest in the land and building and execute all relevant documents therefor and also deliver all documents of title relating to the property, which may be in his possession or power, within three months from the date of registration of the organisation of persons taking flats as a cooperative society.

## **13. Insurance.**

As soon as the building is constructed, the promoter shall insure the building along with the land with any general insurance company and obtain an insurance policy covering the liability of any loss or death that may be caused due to defect of land and construction of the building and submit a copy of such policy to the concerned authorised officer. Form A [See rule 3(1)] Application form by the Promoter for registration under section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 [West Bengal Act No. 20 of 1993] From: Address: To The Authorised Officer, ..... Sir, I/We being the sole proprietor/promoter intend to construct a block/building containing ..... flats

for the purpose of transfer by sale, gift or otherwise do hereby apply for registration of my name/our names under sub-section (1) of section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993.

- 2. An attested copy of receipt Nd.....dated..... showing the payment of prescribed fee of Rs. 500 (Rupees five hundred) only is enclosed herewith.**
- 3. A duly signed statement showing the sources of fund for such construction is enclosed.**
- 4. Registration number, if any, under any other Act (name of the Act to be specified and attested photo-copy of such registration is to be furnished).**
- 5. Particulars of land, if already acquired, on which construction is proposed.**
- 6. The manner in which the above land has been acquired (if purchased, the cost of the land to be mentioned).**
- 7. Extent of applicant's interest in the land.**
- 8. It is hereby declared that none of the applicants**

(a)is of unsound mind or stands so declared by a competent court, or(b)is an undischarged insolvent, or(c)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)has been convicted of an offence of criminal breach of trust, or(e)is otherwise incompetent to make any contract under any law for the time being in force, or(f)the certificate of registration granted previously for construction of any other building was cancelled under section 4 of this Act.Form B[See rule 3(2)]Register for Promoters under sub-section (6) of section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993[To be maintained by the Authorised Officer]

1. Name of the Promoter :
2. Father's/Husband's name :
3. Address (with Telephone Nos.)
- Office :
- Permanent :
4. Registration No., if any, under any other Act (name of the Act to be specified and an attested photo-copy of such registration is to be furnished) :

5. Particulars of land, if already acquired, on which construction is proposed :
6. The manner in which the above land has been acquired (if purchased, the cost of the land to be mentioned) :
7. Extent of applicant's interest in the land :
8. Comments of the Inquiring Officer (refer the File No.) :
9. Order of the Authorized Officer :
10. Number and date of Registration Certificate, if granted :
11. Renewal of Registration with particulars :
12. Extract of the Order, if any, of the Authorized Officer, cancelling the Registration Certificate :
13. Particulars of permission for construction under section 5 of the Act :
14. Particulars of corresponding Building PIA sanctioned [vide section 3(2)] :
15. Revocation of permission for construction [vide section 4(2)] :
16. Order of A.A. :
17. Details of Insurance :
18. Estimated expenditure (approx.) :

(i) One page should be earmarked for one Promoter. (ii) Surname of the Promoter should be written first to be followed by his first name and middle name, if any. (iii) In case of a company or any registered body, trust etc., the particulars of all the directors/executive members (in whatever designation may be called), trustees etc. and the Principal Officers, through whom such company, body or trust etc. are represented, are to be written. Form C [See rule 3(3)] Form of Registration Certificate in terms of sub-section (7) of section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 [West Bengal Act No. 20 of 1993] Certified that Shri/S mt./M/s.....of  
.....(address) has/have duly been registered under sub-section (5) of section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 with effect from the.....day of.....(month).....(year), the Registration number being.....Date.....(Signature) Authorised Officer [Seal] Note : This certificate is valid for the period of 3 years from the date of issue. Copy to the Authority sanctioning the plan. Form D [See rule 4(1)] Application form for permission under sub-section (1) of section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 [West Bengal Act No. 20 of 1993] To The Authorised Officer,.....Sir, In terms of subsection (2) of section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 (West Bengal Act No. 20 of 1993) I/we do hereby apply for permission for construction of building containing.....flats under the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993, for the purpose of.....(details, i.e., sale, gift or otherwise).

**2. I/We have been registered as a promoter in terms of the Act (an attested copy of certificate of registration as Promoter bearing Registered No.....dated.....is enclosed herewith).**

**3. Required particulars are furnished below :**

(a)Detailed description of the land with a site plan;(b)The nature of my/our title to the land (copy of title documents to be annexed);(c)Details of the agreement between the owner of the land and the promoter authorising the later to undertake construction (copy of registered agreement to be annexed);(d)The nature of encumbrances on such land including any right, title or interest or claim of any party in or over such land;(e)The total covered floor areas, the number of flats proposed to be constructed and the approximate size of the flats and facilities including common area facilities;(f)Copy of the sanctioned plan;(g)Details of specification of the construction of building as approved by any Competent Authority under any law for the time being in force;(h)The estimated expenditures for such construction and the sources from which the expenditure shall be financed;(i)Details of financial arrangements made with any Bank or financial institution, and of legal safeguards, if any, taken for such construction or transfer by sale, gift or otherwise;(j)Details of advance payment or deposits proposed to be taken from intending purchasers of flats;(k)The date within which possession of flats proposed to be handed over to the purchaser;(l)Copies of agreements entered into or proposed to be entered into with the purchasers of flats;(m)Name of Architect/Engineer/any other person authorised to submit such plan under any other law for the time being in force who have prepared/will prepare the plans and estimates of the proposed construction together with address;(n)Name and address of the Contractor/Contractors engaged or proposed to be engaged for the construction;(o)Certificate of up-to-date income tax/sales tax clearance of the applicant to be furnished.

**4. I/We do hereby declare and affirm that the above particulars are true to the best of my/our knowledge and information and that nothing has been suppressed in this application. If any information is found to be incorrect or contrary to the provisions of the Act or any other law in force, if any, suppression of any material and relevant information is subsequently detected, I/we shall be liable to be proceeded against under the law. Any change in the above information at any stage shall be brought to your notice in writing by me/us within a week from the date of such change with reasons thereof. I/We do hereby also undertake that when completed, a completion certificate duly issued by the Competent Authority shall be sent to you within 15 (fifteen) days from the date of receipt.**

Dated.....Yours faithfully,(Signature and seal, wherever applicable)Form E[See Rule 4(3)]Form for according permission under sub-section (5) of section 3 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993[West Bengal Act

No. 20 of 1993]Permission is hereby granted to Shri/Smt./M/s.....  
.....of..... (address)  
duly registered as promoter under sub-section (1) of section 3 of the West Bengal Building  
(Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993, the registration  
number being..... dated.....valid.....up to for construction  
of building/buildings.....containing apartments at premises No.....This  
permission is subject to compliance of the provisions under section 12 of the  
Act.Dated.....(Signature)Authorised Officer[Seal]

**1. This permission shall remain valid for a period of three years from the date of issue vide sub-section (1) of section 4 of the Act.**

**2. Regarding extension of validity of this permission, see provisions under sub-section (1) of section 4 of the Act.**

**3. A copy of insurance policy to be furnished within one month after completion of construction.**

**4. The permission may be revoked under sub-section (2) of section 4 of the Act and in the event of non-compliance of the provisions under section 12 of the Act.**

Form F[See Rule 6(1)]Memorandum of appeal under section 5 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993[West Bengal Act No. 20 of 1993]Before the Appellate Authority under section 5 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993.In the matter of appeal byShri/M/s.....vs.The Authorised Officer under the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993;AndIn the matter of order dated.....passed by the Authorised Officer.The appellant most respectfully sheweth

**1. That the appellant made an application for..... under section..... of the West Bengal Building (Regulation of Promotion gild Transfer by Promoters) Act, 1993, on.....to the Authorised Officer..... A**

copy of such application is annexed as Annexure I

**2. The appellant shall narrate his case paragraph-wise statement annexing the copy/copies of relevant document as referred. A copy of the order giving rise to the appeal shall also be annexed.**



**3. Grounds of appeal (The appellant shall state paragraph-wise the grounds for assailing the impugned order of the Authorised Officer).**

**4. The appellant may like to add any other relevant point.**

**5. Prayers (The appellant shall state the prayer/prayers).**

**6. I/We.....son of.....residing at..... in my capacity as.....of the appellant(s) do hereby verify that the statements made in paragraph(s) .....are matters of record and those of paragraph(s).....are my submissions**

and I do hereby verify this memorandum of appeal on

his.....(month).....(year)..... at(place).SignatureForm G[See Rule 7(1)]Form of application for adjudication of dispute regarding purchase of any flat in terms of section 6 of the West Bengal (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993[West Bengal Act No. 20 of 1993]From:ToThe Authorised Officer,.....Sir,In terms of section 6 of the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993, I do hereby beg to inform you that I had entered into an agreement with..... (Promoter) for purchase of a flat at.....A copy of the Agreement made under section 7 of the Act and duly registered is enclosed for perusal.Now I pray to you for adjudication of the following disputes (to be stated clearly).

**1.**

**2.**

**3.**

Dated.....Full Address :Yours faithfully,