

FAQs for MahaRERA Website

I. General FAQs

1. What are the objects and reasons for which the Real Estate (Regulation and Development) Act 2016 has been framed?

Ans: The Real Estate Act is intended to achieve the following objectives:

- ensure accountability towards allottees and protect their interest;
- infuse transparency, ensure fair-play and reduce frauds & delays;
- introduce professionalism and pan India standardization;
- establish symmetry of information between the promoter and allottee;
- imposing certain responsibilities on both promoter and allottees;
- establish regulatory oversight mechanism to enforce contracts;
- establish fast- track dispute resolution mechanism;
- promote good governance in the sector which in turn would create investor confidence.

2. Which areas of Maharashtra are included in the Planning Area as defined in the Act?

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

3. Does the definition of 'promoter' include public bodies such as Development Authorities and Housing Boards?

Ans: The Act covers all bodies (private and public) which develop real estate projects for sale to the general public. Section 2(zk) defines the term 'promoter' which includes both private and public real estate promoters. Thus, both Development Authorities and the Housing Boards, when involved in sale are covered under the Act.

4. If a real estate project has land area less than 500 sq.mts but contains more than 8 apartments. Does it still need to be registered?

Ans. No. Every real estate project which has land area more than 500 sq.mts and has more than 8 apartments needs to be registered

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

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

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

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

7. Does the term 'allottee' include secondary sales?

Ans: As per section 2(d) an allottee includes a person who acquires the said 'apartment / plot' through transfer or sale, but does not include a person to whom such plot, apartment is given on rent. The Act doesn't include rental projects, lease / leave and License deals.

8. Is it permissible to sell parking to allottees?

Ans: The position of parking is as follows;

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

9. What is the obligation of the promoter towards return of amount and compensation to the allottee?

Ans: Section 18 of the Act provides for provisions as regards various situations in which the allottee would be compensated by the promoter due to delay in completion of the project etc.

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

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

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

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

II. FAQs from Consumer's Perspective

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

Ans: Yes, the Commencement certificate should be available for registration of real estate project.

13. What is the penalty prescribed for non-registration of a project under the Act?

Ans: If any promoter fails to register as per Act, he shall be liable to a penalty which may extend up to ten per cent of the estimated cost of the real estate project. On continued violation, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent of the estimated cost of the real estate project, or with both.

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

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

It is mandatory that the advertisement for marketing of apartments in the real estate project must carry the MahaRERA registration number.

15. Whether registration of real estate agents would be project specific, location specific or individual specific?

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

16. What are the penalties that a Real Estate Agent would face if he fails to adhere to the mandates prescribed by MahaRERA?

Ans: If any real estate agent fails to register and contravenes the provisions of section 9 or section 10 of the Act, he shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extend up to five per cent of the cost of plot, apartment or buildings, as the case may be, of the real estate project, for which the sale or purchase has been facilitated as determined by MahaRERA.

17. Is the promoter required to give any undertaking to MahaRERA for completing his project within a specified period?

Ans: Yes, in accordance with the provisions of the Act, the promoter, while applying for registration to MahaRERA, has to give a declaration, supported by an affidavit, indicating the time period within which he undertakes to complete the project or phase thereof, as the case may be.

18. If the registration of a real estate project is revoked for any reason, how will the interest of the buyer, in such project, be protected by MahaRERA?

Ans: MahaRERA will take action in accordance with section 8 of the Act.

19. In case of delay in getting possession from the promoter, will the buyer be entitled to get interest on the amount paid by him, for such delayed period?

Ans: Yes. In accordance with the model form of agreement, if the Promoter fails to abide by the time schedule for completing the project and handing over the [Apartment/Plot] to the Allottee, the Promoter agrees to pay to the Allottee, who does not intend to withdraw from the project, interest as specified in the Rule, on all the amounts paid by the Allottee, for every month of delay, till the handing over of the possession.

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

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

21. Is there a ceiling on the interest to be levied by the promoter in case of default in payment of any instalments by the allottee/buyer?

Ans: In accordance with the model form of agreement, the Allottee has to pay to the Promoter, a rate of interest equal to the State Bank of India highest Marginal Cost of Lending Rate plus two percent, on all the amounts which become due and payable by the Allottee to the Promoter under the terms of the Agreement from the date the said amount is payable by the allottee(s) to the Promoter.

22. What are the provisions for an aggrieved person to lodge a complaint?

Section 31 of the Act and Rule 6 of Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2017 provide for filing of complaint with MahaRERA, by an aggrieved person who has any interest in the registered project. The aggrieved person can file an application online as per format provided by MahaRERA. It shall include the following details:

- Registration number of the project to which the complaint pertains
- Particulars of the complainant and respondent
- Facts of the case
- Relief Sought
- List of Enclosures and so on

23. Can a promoter or a real estate agent also file complaint against a buyer?

Ans: Yes. An aggrieved person having any interest in the registered real estate project can file complaint.

24. Is there any provision for interim relief to be granted, pending the final adjudication of the complaint?

Ans: The procedure to be followed by MahaRERA while adjudicating a complaint is detailed in section 36 of the Act read with Rule 6(2) of Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2017.

25. Where will the aggrieved home buyer be required to file his complaint?

Ans: The aggrieved person can file an application online as per format provided by MahaRERA website.

26. On what grounds can the home buyer file a complaint?

Ans: An aggrieved person may file a complaint with MahaRERA for any violation or contravention of the provisions of the Act or the Rules or Regulations made there under.

27. Who would decide the complaints?

Ans: As per Regulation 24 of Maharashtra Real Estate Regulatory Authority (General) Regulations 2017, for adjudication proceedings with respect to complaints filed, MahaRERA may, by order, direct that specific matters or issues be heard and decided by a single bench of either the Chairperson or any Member of the Authority.

28. Is there any pecuniary jurisdiction for complaint handling Authorities?

Ans: No. However, geographical jurisdiction may be specified for Chairperson or members of MahaRERA.

29. Is there any time limit prescribed for disposal of complaints?

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

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

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

31. Is there appeal provided against the orders given by MahaRERA? Is there a time limit? What are the fees?

Ans: Any person aggrieved by any direction or decision or order made by MahaRERA or by an adjudicating officer may file an appeal before the Appellate Tribunal within a period of sixty days, in accordance with Rule 9 of Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2017.

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

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

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

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

III. FAQs from Promoter's perspective:

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

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

35. How does the promoter make an application for registration?

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

36. Is it compulsory for the promoter to register the project immediately after he gets sanctioned approvals?

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

37. Will ongoing Project have to stop sales or construction till receiving the Registration?

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

38. Can promoter change the completion date for ongoing projects while registering?

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

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

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

40. Can an allottee who has executed agreement with the promoter prior to the ongoing project getting registered with the Authority, be a complainant before MahaRERA?

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

41. Can the promoter change the plans of subsequent phases after registration of the 1st phase?

Ans: The Act puts an obligation on a promoter to obtain consent of each allottee, if he

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

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

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

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

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

44. Is insurance of the project compulsory? What are the provisions regarding Insurance?

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

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

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

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

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

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

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

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

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

48. When does the promoter need to form society, association etc.?

Ans: The Promoter has to ensure that an association of allottees is formed within three months of 51% of allottees have booked their apartment in the project.

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

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

50. Whether MahaRERA recognizes Maharashtra Ownership Flats Act and Apartment Ownership Act?

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

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

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

52. How will the Act, Rules and Regulations affect advertisement of projects with many phases?

Ans: A promoter would be allowed to advertise, market, book, sell or offer to sell or invite persons to purchase plot, apartment or building in a phase of a real estate project, only if the said phase is registered. A promoter cannot advertise, commit or sell amenities or facilities that are in a subsequent phase which is still not registered.

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

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

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

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

55. What if Part OC is received for the project: is it exempt from registration?

Ans: The phase for which the part OC is received does not require registration. The phase for which the construction is on-going and the part OC is not obtained requires registration

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

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

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

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

58. Does developer need to submit the certificates to Banker or retain with him?

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

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

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

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

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

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

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

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

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

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

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

64. In case of customers default: can developer be selective in cancelling units?

Ans: Provision of termination of agreement is covered in the Model Form of Agreement attached to Maharashtra Real Estate (Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017.

65. Internal changes: assuming making a duplex at customers request: will this be treated as Major change and require approval of other allottees?

Ans: Please refer to section 14 of the Act

IV. FAQS from Real Estate Agent's Perspective

66. Who needs to apply for Registration for broking business in Real Estate?

Ans: Every Real Estate Agent who intends to facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a registered real estate project being sold by the promoter in any planning area in Maharashtra, shall have to apply for registration to Maharashtra Real Estate Regulatory Authority (MahaRERA).

67. What is the procedure to obtain registration to operate as Real Estate Agents? What are documents required to get real estate agent's license?

Ans: It will be through an easy online process. The procedure is explained in Rule 11 of Maharashtra Real estate(Regulation and Development)(Registration of Real Estate projects, Registration of Real Estate Agents, rates of Interest and Disclosures on website) Rules 2017.

68. What is the fee for registration? What is the duration?

Ans: The fees are in accordance with Rule 11(3) of the Maharashtra Real Estate (Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017. The registration is valid for a period of five years

69. Will marketing and sales staff of Builder/ Promoter/ Developer also need to take registration as an agent?

Ans: A real estate agent is clearly defined in Section 2(zm) of the Act.

70. Will the registration of MahaRERA be operated in other states?

Ans: No. The registration is valid only for Maharashtra region.

71. Is this registration transferable to another agent or to other state where agents intend to shift his office?

Ans: No

72. Even if real estate agent has not taken any commission from client and taken it from promoter, can the agent still be responsible and liable for builder's default?

Ans: The agent's liability is in accordance with Section 10 of the Act. He is not held liable for the promoter's default.

73. If real estate agent is not listed with promoter's registration at MahaRERA website, still can he sell in this project?

Ans: No. If the promoter has not included the real estate agent's name at the time of registration, it will have to be included by the promoter, subsequently, and up dated in the MahaRERA website. The real estate agent can operate in the project only thereafter.

74. Will MahaRERA protect Agents for their commissions not paid by builder or by parties to the deal?

Ans: No, these will be guided by the agreements that real estate agents have with the concerned promoters or allottees.

75. Will agent be responsible till the delivery of flats / real estate unit done or is he responsible till documents are registered?

Ans: The responsibility of the real estate agent will be in accordance with Section 10 of the Act.

76. What will be the penalties and fines?

Ans: Penalties for non-registration and contravention of provisions of section 9 and 10 are given in Section 62 of the Act.

77. What are unfair Trade Practices?

Ans: It is explained in Section 10 (c) of the Act.

78. What if promoter gives false information or documents to real estate agent and agent acts upon such information, will he be liable?

Ans: Under Section 12 of the Act, it is the obligation of the promoter regarding veracity of advertisement and prospectus. The agent is liable if he makes a false or misleading representation concerning the services that he intends to offer.

79. Will listing websites / newspapers/ exhibitions promoting real estate needs to take agents' license?

Ans: Yes, if they intend to facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a registered real estate project being sold by the promoter in any planning area.

80. Will digital media listings by builders / agents need to get approved from MahaRERA?

Ans: No

81. Will real estate agents putting advertisement on builders' behalf need to get approved his print / radio/ TV/ other media promotions content?

Ans: No, however no advertisement should be put out for a project unless the concerned promoter has registered the project with MahaRERA. The agent should not advertise for services that are not intended to be offered.

82. If registration is not given within 30 days, will it be deemed registration?

Ans: Yes, if the Authority fails to issue any communication about deficiencies, within 30 days of the receipt of the application for registration.

83. Does an entity "Other than an Individual", who has applied and paid registration fees, need to apply separately for its staff?

Ans: No, as long as the staff operate under the aegis of the said entity.

84. Will a multi-state operator of real estate agency business need to apply in all state of India?

Ans: For working as a real estate agent in Maharashtra, registration will be given by MahaRERA.

85. Is Agent authorized to sign on behalf of his promoter / builder?

Ans: No.

P.T.O.

Disclaimer:

The views expressed herein are of the Secretariat and may not necessarily be the views of the MahaRERA Authority.

Our response is based solely on the understanding provided to us. We assume, for the purpose of this response that all facts provided to us are accurate and correct. Any differences or inaccuracies in the facts, assumptions and representations could adversely affect our conclusions in this response.

Further, our response should strictly be construed in adherence to the provisions of the Real Estate (Regulation and Development) Act 2016 and Rules and Regulations made thereunder.