

PART I

GOVERNMENT OF PUNJAB

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

NOTIFICATION

The 27th August, 2014

No.22-Leg./2014.- The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 20th Day of August, 2014, is hereby published for general information:-

THE PUNJAB APARTMENT AND PROPERTY REGULATION

(AMENDMENT) ACT, 2014

(Punjab Act No. 21 of 2014)

AN

ACT

further to amend the Punjab Apartment and Property Regulation Act, 1995.

BE it enacted by the Legislature of the State of Punjab in the Sixty-fifth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Punjab Apartment and Property Regulation (Amendment) Act, 2014. Short title, extent and commencement.
- (2) It shall extend to the whole of the State of Punjab.
- (3) It shall come into force on and with effect from the date of its publication in the Official Gazette.
2. In the Punjab Apartment and Property Regulation Act, 1995 (hereinafter referred to as the principal Act), in section 2,- Amendment in section 2 of Punjab Act 14 of 1995.
 - (a) after clause (c), the following clause shall be inserted, namely:-

"(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;"
 - (b) in clause (f), for the sign ";" appearing at the end, the words, figure and sign "and includes or an association formed under section 17-A of this Act;" shall be substituted;
 - (c) for clauses (g), (i), (r) and (y), the following clauses shall be

substituted, namely:-

"(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;

(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-

(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;

(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

- (y) "promoter" means the person,—
- (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;"; and
- (d) in clause (z), for the word "and" appearing at the end, shall be omitted; and

(e) in clause (za), for the sign "." appearing at the end, the sign and word "; and" shall be substituted and thereafter the following clause shall be added, namely:—

"(zb) "unauthorized colony" means a colony which has been developed in contravention with the provisions of the Act and the rules made thereunder."

3. In the principal Act, in section 3, in sub-section (2),—

Amendment in
section 3 of
Punjab Act 14 of
1995.

(a) in clause (a), for the words and signs "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;", the words and signs "officer not below the rank of Assistant Collector Grade-II after he has examined the transactions concerning it in the previous ten years" shall be substituted;

(b) in clause (b), for the words "over such land", the words and sign "over such land duly certified by an authority not below the rank of Assistant Collector Grade-II" shall be substituted;

(c) in clause (h), for the existing proviso, the following proviso shall be substituted, namely:—

"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."

4. In the Principal Act, in section 4,—

Amendment in
section 4 of
Punjab Act 14 of
1995.

(i) for sub-section (1) and clause (a), the following shall be substituted, namely:—

"(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 ;"; and

(ii) in sub-section (5), for the words "upto one year or with fine which may extend upto five thousand rupees", the words "upto three years or with fine which may extend upto five lac rupees" shall be substituted.

5. In the principal Act, for section 5, the following section shall be substituted, namely:—

Substitution of section 5 of Punjab Act 14 of 1995.

"5. (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 sub-section (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 sub-section (15), the balance amount shall be payable to the promoter."

6. In the principal Act, in section 6, in sub-section (3), in clause (c),— Amendment in section 6 of Punjab Act 14 of 1995.

(a) in item (i), for the words and sign "an attorney-at-law or advocate", the words and sign "officer not below the rank of Assistant Collector Grade-II" shall be substituted;

(b) in item (ii), at the end, the word "and" shall be omitted; and

(c) in item (iii), for the sign ".", the sign and word "; and" shall be substituted and thereafter, the following item shall be added, namely:—

"(iv) copy of the approved layout plan of colony."

7. In the principal Act, for section 9, the following section shall be substituted, namely:— Substitution of section 9 of Punjab Act 14 of 1995.

"9. The promoter shall maintain a separate account in any Accounts of sums scheduled bank of sums taken by him from taken by promoters. 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."

8. In the principal Act, in section 14, in sub-section (2), for the sign ":", the sign ":" shall be substituted and thereafter, the following proviso shall be added, namely:—

Amendment in section 14 of Punjab Act 14 of 1995.

"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."

9. In the principal Act, for section 15, the following section shall be substituted, namely:—

Substitution of section 15 of Punjab Act 14 of 1995.

"15. (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."

10. In the principal Act, after section 17, the following section shall be inserted, namely:—

Insertion of new section 17-A of Punjab Act 14 of 1995.

"17-A. (1) The competent authority shall by an order direct to
Formation of association. 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."

11. In the principal Act, in section 18, in sub-section (1),--
- (i) in clause (a), for the words and sign "by an attorney-at-law or an advocate of not less than seven years' standing, after he has examined transaction concerning it in the previous thirty years", the words and figures "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" shall be substituted; and
- (ii) clause (d) shall be omitted.
12. In the principal Act, for section 20, the following shall be substituted, namely:--
- "20. (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.
- Restriction on development and structures in a colony.
- (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."
- Amendment in section 18 of Punjab Act 14 of 1995.
- Substitution of section 20 of Punjab Act 14 of 1995.

13. In the principal Act, in section 32,—

Amendment in
section 32 of
Punjab Act 14 of
1995.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(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."

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(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."

14. In the principal Act, for section 36, the following shall be substituted, namely:—

Substitution of
section 36 of
Punjab Act 14 of
1995.

"36. (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