

THE ISLAMABAD REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2021

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# THE ISLAMABAD REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2021

[6th February, 2021]

Act

to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and for matters connected therewith

WHEREAS it is expedient to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to protect the interest of buyers in the real estate sector by ensuring that the sale and purchase of plot, apartment or building, as the case may be, or sale of real estate project, to the buyer by a developer or owner holding title by himself or through a company or an agent is by an efficient and transparent manner and to regulate mega projects in the real estate sector by any developer and provide a mechanism for speedy dispute redressed by establishing an Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the recommendations of the inquiry officer and for matters connected therewith or incidental thereto follows:—

## CHAPTER I PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Islamabad Real Estate (Regulation and Development) Act, 2020.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) "Authority" means the Islamabad Real Estate Regulatory Authority established under this Act;

(b) "Appraisal or inquiry officer" means the inquiry officer appointed by the Authority or the Appellate Tribunal under this Act;

(c) "Advertisement" means any document by the developer or his authorized agent described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate property or real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

(d) "allottee" in relation to a real estate project or a real estate holding, means the person to whom a plot, apartment or building, as the case may be, has been sold

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(whether as freehold or leasehold which is not less than thirty three years) by way of a sale, transfer or otherwise or transferred by the developer having sale of real estate rights given to him by the owner of the real estate, and includes the person who subsequently acquires the said allotment but does not

include a person to whom such plot, apartment or building, as the case may be, is given on rent;

“Agreement for sale” means an agreement entered into between the developer and the allottee to sell and to purchase the property respectively;

“apartment” whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;

“Appellate Tribunal” means the Real Estate Appellate Tribunal established under this Act;

“Government” means the Federal Government;

“architect” means a person registered as an architect under the provisions of the Pakistan Council of Architects and Town Planners Act, 1983 (Ordinance No. IX of 1983);

“building” includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;

“carpet area” means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

Explanation.—For the purpose of this clause, the expression “exclusive balcony or verandah area” means the area of the balcony or verandah, as the case may

be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and “exclusive open terrace area” means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee.

“Chairperson” means the Chairperson of the Real Estate Regulatory Authority

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appointed under this Act;

“commencement certificate” means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the an authority empowered by law or the owner if so permitted by law to allow or permit the developer to begin development works on an immovable property, as per the sanctioned plan approved and issued an authority empowered by law;

“common areas” mean—

(i) \_ the entire land for the real estate project even when the project is developed in phases and registration under this Act is sought for only a phase out of the entire land;

(ii) the cases, lifts, fire escapes, and common entrances and exits of buildings;

(iii) the common basements, terraces, parks, play areas; open parking areas and common storage spaces;

(iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging and offices of community service personnel;

(v) Installations of central services such as electricity, gas, water and sanitation, air-conditioning, system for water conservation and renewable energy and incinerating;

(vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;

(vii) all community and commercial facilities as provided in the real estate project; and

(viii) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;

“company” means a company incorporated and registered under the Companies Act, 2017 (XIX of 2017) to develop and construct real estate projects;

“corporation” means a corporation established by or under any Federal Act;

“development authority” means any public authority established by the Government in this behalf under any law for the time being in force;

“completion certificate” means the completion certificate, or such other

certificate, by whatever name called, issued by the an authority empowered by

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law certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the an authority empowered by law under the local laws;

(s) "day" means the working day, in the Federal territory, notified by the Federal Government from time to time;

(t) "Land owner" means any local authority or the Capital Development Authority created or established under any law for the time being in force by the Federal Government holding a land lawfully which can be sold to the public or a lawful owner of the land having authority over land under its jurisdiction to sell it, and has powers to give permission for development of such immovable property to a developer;

(u) "development" with its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re-development;

(v) "development works" means the external development works and internal development works on immovable property;

(w) "engineer" means a person who is registered as an engineer with the Pakistan Engineering Council;

(x) "estimated cost of real estate project" means the total cost involved in developing the real estate project and includes the land cost, taxes, development and other charges;

(y) "external development works" includes roads and road systems, landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in

the periphery of, or outside, a project for its benefit, as may be provided under the local laws;

(z) "family" includes husband, wife, minor son and unmarried daughter, father or mother wholly dependent on a person;

(za) "garage" means a place within a project having a roof and walls on three sides for parking any vehicle, but does not include an unenclosed or uncovered parking space such as open parking areas;

(zb) "immovable property" includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently

fastened to anything which is attached to the earth, but not standing timber, standing crops or grass;

(zc) "interest" means the rates of interest payable by the developer or the allottee, as the case may be.

Explanation.—For the purpose of this clause,—

(i) the rate of interest chargeable from the allottee by the developer, in case of default in the payment scheme agreed upon in the agreement, shall be equal to the rate of interest which the developer shall be liable to pay the allottee, in case of default; and

(ii) the interest payable by the developer to the allottee shall be from the date the developer did not deliver the possession of the premises/ real estate project as per the agreement between the Seller developer and buyer allottee.

(zd) "internal development works" in relation to a real estate project means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and silage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as educational, health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

(ze) "local authority" means the Municipal Corporation or Municipality or Capital Development Authority or Panchayats or any other Local Body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;

(zf) "Member" means the member of the Real Estate Regulatory Authority appointed under this Act;

(zg) "Ministry" means the Ministry of Interior, Government of Pakistan; (zh) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(zi) "occupancy certificate" means the occupancy certificate, or such other certificate by whatever name called, issued by the an authority empowered by law permitting occupation of any building constructed reasonably within the approved plan or layout as provided under local laws, which has the civic infrastructure such as water, sanitation and electricity available;

(zj) "person" includes,—

(i) an individual;

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an undivided family;  
a company;

a firm under the Pakistani Partnership Act, 1932 (IX of 1932) or the Companies Act, 2017 (XIX of 2017) as the case maybe;

an authority established and empowered by law;

an association of persons or a body of individuals whether incorporated or not;

a co-operative society registered under any law relating to co-operative societies; and

(viii) any such other entity as the Federal Government may, by

notification, specify in this behalf;

“planning area” means a planning area or a development area or a local planning area or a regional development plan area, by whatever name called, or any other area specified as such by the Federal Government or any authority having such power under the law and includes any area designated by the Federal Government or any authority or an owner to be a planning area for future planned development, under the law relating to Town and Country Planning for the time being in force and as revised from time to time;

“prescribed” means prescribed by the Rules made under this Act; (zm) “project” means the real estate project as defined under this Act; (zn) “developer” means,—

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a person who constructs or causes to be constructed an independent building or a 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 himself or

through his legally nominated and declared assignees; or  
a person who develops a land given to him by an land owner for  
conversion of the land into a real estate project, whether ornot such  
person also constructs structures on any of the plots, for the purpose  
of selling to other persons all or some of the plots in the said project;  
or

any development authority or any other public body in respect of  
allottees of—

(a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government for allotment or for selling out; or

(b) plots owned by such authority or body or placed at their disposal by the Government for the purpose of selling all or some of the apartments or plots for allotment or for selling out; or

(iv) a co-operative housing finance society and a primary co-operative housing society which holds a land lawfully and constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings owned by it; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or

(vi) such other person who constructs any building or apartment for sale to the general public.

Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the developers and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the Rules and regulations made thereunder.

(zo) "prospectus" means any document described or issued as a prospectus or any notice, circular, or other document offering for sale or any real estate project or inviting any person to make advances or deposits for such purposes;

(zp) "real estate agent" means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

(zq) "real estate project" means the development of a plot into a building or a building consisting of apartments, or converting an existing building or a part

thereof into apartments, or the development of land into plots for residential houses and commercial plots for commercial use or apartments in an apartment building or in a portion of a building, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

(zr) "regulations" means the regulations made by the Authority under this Act;

(zs) "rule" means the rules made under this Act; and

(zt) "sanctioned plan" means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the authority empowered by law prior to start of a real estate project shall continue at the pleasure of the Authority under this Act.

(2) The words and expressions used herein but not defined in this Act and defined in any law for the time being in force or in the municipal laws or such other relevant laws of the Federal Government shall have the same meanings respectively assigned to them in those laws.

## CHAPTER II

### REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

3. Prior Registration of real estate project with Real Estate Regulatory Authority.—(1) No developer shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the developer shall make an application with the documents required to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but carry a permission of the local authority, it may, by order, direct the developer of such project to register with the Authority so that the provisions of this Act or the rules and regulations made thereunder become applicable to such projects.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required with the Authority where the developer has received completion certificate for a real estate project prior to commencement of this Act.

4. Application for registration of real estate project—(1) Every developer shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be specified by the regulations made by the Authority.

(2) The developer shall enclose the following documents along with the application referred to in sub-section (1), namely:—

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Undisputed ownership documents of the land on which the real estate project is being built and sold;

if the developer is other than the owner of the land, then a legal authorization for the developer to carry out the real estate project clearly specifying whether he will be developing commercial plots or buildings or residential plots or buildings or apartments and the proposal as to how he will sell these properties after development along with a time frame;

a brief details of his enterprise including its name, registered address, type of enterprise proprietorship, societies, partnership, companies, an authority empowered in accordance with the Capital Development Authority law and regulations and the particulars of registration, and the names and photographs of the developer;

a brief detail of the projects launched by him, in the past five years, whether already completed or being developed, as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending, details of type of land and payments pending;

an authenticated copy of the approvals and commencement certificate from the an authority empowered by law obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the an authority empowered in accordance with the Capital Development Authority law and regulations for each of such phases;

the sanctioned plan, layout plan and specifications of the proposed project or

the phase thereof, and the whole project as sanctioned by the an authority

empowered by law ;

the plan of development works to be executed in the proposedproject and the proposed facilities to be provided thereof including firefighting facilities,

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drinking water facilities, emergency evacuation services, use of renewable energy;

the location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the latitude and longitude of the end points of the project;

proforma of the allotment letter, agreement for sale, and the conveyance deed proposed to be signed with the allottees;

the number, type and the carpet area of apartments for sale in the project along with the area of the exclusive balcony or verandah areas and the exclusive open terrace areas apartment with the apartment the number and areas of garage for sale in the project, if any;

the names and addresses of his real estate agents or his advertisers and promoters, if any, for the proposed project;

the names and addresses of the contractors, architect, structural engineer, if any and other persons concerned with the development of the proposed project;

a declaration, supported by an affidavit and documents, which shall be signed by the developer or any person authorized by the developer, stating: —

(i) \_ that he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person;

(ii) that the land is free from all encumbrances, or as the case maybe details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;

(iii) the time period within which he undertakes to complete the project or phase thereof, as the case may be;

(iv) that seventy per cent of the amounts realized for the real estate project from the allottees from time to time and this shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

Provided that the developer shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the developer after it is certified by an engineer, an architect and a chartered accountant in practice that

the withdrawal is in proportion to the percentage of completion of the project:

Provided also that the developer shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilized for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

(v) that he shall take all the pending approvals on time, from the authorities concerned; and

(vi) that he has furnished such other documents as may be prescribed by the rules or regulations made under this Act; and

(n) such other information and documents as may be required by the Authority from time to time.

(3) The Authority shall operationalize a web based online system for submitting applications for registration of projects within a period of one year from the date of the First meeting of the Authority, however hardcopy applications can also be submitted to the Authority.

5. Registration of the Developer with the Authority—(1) On receipt of the application from the developer for grant of registration to it, the Authority shall, within a period of thirty days,—

(a) grant registration subject to the provisions of this Act and the rules and regulations made thereunder, and provide a registration number, including a Login Id and password to the applicant for accessing the website of the Authority and with directions to the developer to create his web page and to fill therein the details of the proposed project and prominently mention the registration number issued by the Authority in all its correspondence and advertisements; or

(b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of this Act or the rules or regulations made thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(2) If the Authority fails to grant the registration or reject the application, as the case may be, as provided under sub-section (1), the project shall be deemed to have been registered, and the Authority shall within a period of seven days of the expiry of the said period of thirty days specified under sub- section (1), provide a registration number and a Login Id and password to the developer for accessing the website of the Authority and to create his web page and to fill

therein the details of the proposed project. If the Authority wishes not to grant registration to the developer it can do so but only after a reasonable opportunity of hearing.

(3) The registration granted under this section shall be valid for a period as requested by the developer in his application for completion of the project or phase thereof, as the case may be.

6. Extension of registration of the Developer.—The registration granted under section 5 may be extended by the Authority on an application made by the developer due to force majeure, in such form and on payment of such fee as may be specified by regulations made by the Authority:

Provided that the Authority may in reasonable circumstances, without default on the part of the developer, based on the facts of each case, and for reasons to be recorded in writing, extend the registration granted to a project for such time as it considers necessary, which shall, in aggregate, not exceed a period of one year:

Provided further that no application for extension of registration shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

Explanation.—For the purpose of this section, the expression “force majeure” shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project.

7. Revocation of registration of the Developer.—(1) The Authority may, on receipt of a complaint or suo motu in this behalf or on the recommendation of an authority empowered by law, revoke the registration granted under section 5, after being satisfied that—

(a) the developer makes default in doing anything required by or under this Act or the rules or the regulations made thereunder;

(b) the developer violates any of the terms or conditions of the approval given by an authority empowered by law; and

(c) the developer is involved in any kind of unfair practice or irregularities.

Explanation.—For the purposes of this clause, the term “unfair practice means” a practice which, for the purpose of promoting the sale or development of any real estate project adopts any unfair method or unfair or deceptive

practice including any of the following practices, namely:—

(A) the practice of making any statement, whether in writing or by visible representation which,—

(i) falsely represents that the services are of a particular standard or grade;

(ii) represents that the developer has approval or affiliation which such developer does not have; and

(iii) makes a false or misleading representation concerning the services; and

(B) the developer permits the publication of any advertisement or prospectus whether in any newspaper or otherwise of services that are not intended to be offered;

(d) the developer indulges in any fraudulent practices.

(2) The registration granted to the developer under section 5 shall not be revoked unless the Authority has given to the developer not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the registration, and has considered any cause shown by the developer within the period of that notice against the proposed revocation.

(3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the developer.

(4) The Authority, upon the revocation of the registration,—

(a) shall debar the developer from accessing its website in relation to that project and specify his name in the list of defaulters and display his photograph on its website and also inform the public about such revocation or registration;

(b) shall facilitate the remaining development works to be carried out in accordance with the approved proposal;

(c).-shall direct all the banks holding the project bank account of the Developer, to immediately freeze the account, and thereafter provide an opportunity of hearing within seven working days and take such further necessary actions, including consequent de-freezing of the said account, towards facilitating the remaining development works; and

(d) may, to protect the interest of allottees or in the public interest, issue such directions as it may deem necessary.

8. Obligation of Authority consequent upon lapse of or on revocation of registration of a Developer.—Upon lapse of the registration or on revocation of the registration under this Act, the Authority, may consult the Federal Government to take such action as it may deem fit including the carrying out of the remaining development works by an authority empowered by law or by the association of allottees or in any other manner, as may be determined by the Authority:

Provided that no direction, decision or order of the Authority under this section shall take effect until the expiry of the period of appeal provided under the provisions of this Act:

Provided further that in case of revocation of registration of a project under this Act, the association of allottees shall have the first right of refusal for carrying out of the remaining development works.

9. Registration of real estate agents.—(1) No real estate agent shall 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 real estate project or part of it, being the part of the real estate project registered under section 3, being sold by the developer in any planning area, without obtaining registration under this section.

(2) Every real estate agent shall make an application to the prescribed Authority for registration in such form, manner, within such time and accompanied by such fee and documents as may be prescribed by the Islamabad Real Estate Agents and Motor Vehicle Ordinance, 1984.

(3) The Authority shall, within such period, in such manner and upon satisfying itself of the fulfillment of such conditions, as may be prescribed—

(a) grant a single general registration to the real estate agent for two years which can be renewed after every two years; Or

(b) grant a single registration to the real estate agent for a particular project; or  
(c) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of the Act or the rules or regulations made

thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(4) Whereon the completion of the period specified under sub-section (3), if the applicant does not receive any communication about the deficiencies in his application or the rejection of his application, he shall be deemed to have been registered.

(5) Every real estate agent who is registered as per the provisions of this Act or the rules and regulations made thereunder, shall be granted a registration number by the Authority, which

shall be quoted by the real estate agent in every sale facilitated by him under this Act.

(6) Every registration shall be valid for such period as may be prescribed, and shall be renewable for a period in such manner and on payment of such fee as may be prescribed.

(7) Where any real estate agent who has been granted registration under this Act commits

breach of any of the conditions thereof or any other terms and conditions specified under this Act or any rules or regulations made thereunder, or if there is any complaint against a real estate agent or where the Authority is satisfied that such registration has been secured by the real estate agent through misrepresentation or fraud, the Authority may, without prejudice to

any other provisions under this Act, revoke the registration or suspend the same for such period as it thinks fit:

Provided that no such revocation or suspension shall be made by the Authority unless an opportunity of being heard has been given to the real estate agent.

10.

9 shall—

(a)

(b)

(c)

(d)

(e)

Functions of real estate agents.—Every real estate agent registered under section

not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the developer in any planning area, which is not registered with the Authority;

maintain and preserve such books of account, records and documents as may be prescribed;

not involve himself in any unfair trade practices, namely:—

(i) the practice of making any statement, whether orally or in writing or by visible representation which—

(A) falsely represents that the services are of a particular standard or grade;

(B) represents any approval or affiliation which the agent or the developer does not have; and

(C) makes a false or misleading representation concerning the services;

(ii) permitting the publication of any advertisement whether in any newspaper or otherwise of services that are not intended to be offered.

facilitate the possession of all the information and documents, as the allottee, is entitled to, at the time of booking of any plot, apartment or building, as the case may

be; and

discharge such other functions as may be prescribed.



## CHAPTER-III FUNCTIONS AND DUTIES OF DEVELOPER

11. Functions and duties of developer.—(1) The developer shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his webpage on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including—

- (a) details of the registration granted by the Authority;
- (b) quarterly up-to-date the list of number and types of apartments or plots, as the case may be, booked;
- (c) quarterly up-to-date the list of number of garages booked;
- (d) quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate;
- (e) quarterly up-to-date status of the project; and
- (f) such other information and documents as may be specified by the regulations made by the Authority.

(2) The advertisement or prospectus issued or published by the developer shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto.

(3) The developer at the time of the booking and issue of allotment letter shall be responsible to make available to the allottee, the following information, namely:—

(a) sanctioned plans, layout plans, along with specifications, approved by the authority empowered by law, by display at the site or such other place as may be specified by the regulations made by the Authority;

(b) the stage wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity.

(4) The developer shall—

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made there under or to the

allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the

- (b)
- (c)
- (d)
- (e)
- (f)
- (g)

case may be, to the allottees, or the common areas to the association of allottees or the an authority empowered by law, as the case may be:

Provided that the responsibility of the developer, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even afterthe conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed;

be responsible to obtain the completion certificate or the occupancycertificate, or both, as applicable, from the relevant an authority empowered by law as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;

be responsible to obtain the lease certificate, where the real estate project is developed on a leasehold land, specifying the period of lease, and certifying that all dues and charges in regard to theleasehold land has been paid, and to make the lease certificateavailable to the association of allottees;

be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of theproject by the association of the allottees;

enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable:

Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;

execute a registered conveyance deed of the apartment, plot orbuilding, as the case may be, in favour of the allottee along with theundivided proportionate title in the common areas to the association of allottees or an authority empowered by law, as the case may be,as provided under this Act;

pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or otherencumbrances and such other liabilities payable to competent authorities,

banks and financial institutions, which are related to the project):

Provided that where any developer fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the developer shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefore by such authority or person; and

(h) after he executes an agreement for sale for any apartment, plot or building, as the case may be, not mortgage or create a charge on such apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or building, as the case may be.

(5) The developer may cancel the allotment only in terms of the agreement for sale:

Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.

(6) The developer shall prepare and maintain all such other details as may be specified as required from time to time by Authority.

**12. Obligation of developer regarding veracity of the advertisement or prospectus.**—Where any person makes an advance or a deposit on the basis of the information contained in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains

any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the developer in the manner as provided under this Act:

Provided that if the person affected by such incorrect, false statement contained in the notice, advertisement or prospectus, or the model apartment, plot or building, as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under this Act.

**13. No deposit or advance to be taken by developer without first entering into agreement for sale.**—(1) A developer shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case maybe, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.

(2) The agreement for sale referred to in sub-section (1) shall be in such form as may

be prescribed and shall specify the particulars of development of the project including the construction of building and apartments, along with specifications and internal development works and external development works, the dates and the manner by which payments towards the cost of the apartment, plot or building, as the case may be, are to be made by the allottees and the date on which the possession of the apartment, plot or building is to be handed over, the rates of interest payable by the developer to the allottee and the allottee to the developer in case of default, and such other particulars, as may be prescribed.

14. Adherence to sanctioned plans and project specifications by the developer.—(1)

The proposed project shall be developed and completed by the developer in accordance with the sanctioned plans, layout plans and specifications as approved by the authorities approved by the Federal Government.

(2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the authority empowered by law, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the developer shall not make—

(i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:

Provided that the developer may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorized Architect or Engineer after proper declaration and intimation to the allottee.

Explanation.—For the purpose of this section, “minor additions or alterations” excludes structural change including an addition to the area or change in height, or the removal of part of a building, or any change to the structure, such as the construction or removal or cutting into of any wall or a part of a wall, partition, column, beam, joist, floor including a mezzanine floor or other support, or a change to or closing of any required means of access ingress or egress or a change to the fixtures or equipment, etc., and

(ii) any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other than the developer, who have agreed to take apartments in such building.

Explanation.—For the purpose of this clause, the allottees, irrespective of the number of apartments or plots, as the case may be, booked by him or

booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, etc., by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the developer as per the agreement for sale relating to such development is brought to the notice of the developer within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the developer to rectify such defects without further charge, within thirty days, and in the event of developer's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

15. Obligation of developer in case of transfer of a real estate project to a third party.—(1) The developer shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from two-third allottees, except the developer, and without the prior written approval of the Authority:

Provided that such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be, in the real estate project made by the erstwhile developer.

Explanation.—For the purpose of this sub-section, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(2) On the transfer or assignment being permitted by the allottees and the Authority under sub-section (1), the intending developer shall be required to independently comply with all the pending obligations under the provisions of this Act or the rules and regulations made thereunder, and the pending obligations as per the agreement for sale entered into by the erstwhile developer with the allottees:

Provided that any transfer or assignment permitted under provisions of this section shall not result in extension of time to the intending developer to complete the real estate project and he shall be required to comply with all the pending obligations of the erstwhile developer, and in case of default, such intending developer shall be liable to the consequences of breach or delay, as the case may be, as provided under this Act or the rules and regulations made thereunder.

16. Obligation of developer regarding insurance of real estate project.—(1) The developer shall obtain all such insurances as may be notified by the Authority, including but not

limited to insurance in respect of —

(i) title of the land and building as a part of the real estate project; and

(ii) construction of the real estate project.

(2) The developer shall be liable to pay the premium and charges in respect of the insurance specified in sub-section (1) and shall pay the same before transferring the insurance to the association of the allottees.

(3) The insurance as specified under sub-section (1) shall stand transferred to the benefit of the allottee or the association of allottees, as the case may be, at the time of developer entering into an agreement for sale with the allottee.

(4) On formation of the association of the allottees, all documents relating to the insurance specified under sub-section (1) shall be handed over to the association of the allottees.

17. Transfer of titles —(1) The developer shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the an authority empowered by law, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the an authority empowered by law, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the an authority empowered by law, as the case may be, under this section shall be carried out by the developer within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the developer to handover the necessary documents and plans, including common areas, to the association of the allottees or the an authority empowered by law, as the case may be, as per the local laws:

Provided that, in the absence of any local law, the developer shall handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the occupancy certificate.

18. Return of the amount and compensation.—(1) If the developer fails to complete or is unable to give possession of an apartment, plot or building,—

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case

may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the developer, interest for every month of delay, till the handing over of the possession, at such rate as may be mutually agreed in writing between the Developer and the allottee otherwise the case shall be decided by the Authority.

(2) The developer shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.

(3) If the developer fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees or face penalties imposed upon him by the Authority after giving him an opportunity of hearing.

#### CHAPTER IV RIGHTS AND DUTIES OF ALLOTTEES

19. Rights and duties of allottees—(1) The allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the authority empowered by law and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the developer.

(2) The allottee shall be entitled to know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the developer and the allottee in accordance with the terms and conditions of the agreement for sale.

(3) The allottee shall be entitled to claim the possession of apartment, plot or building, as the case may be, and the association of allottees shall be entitled to claim the possession of the common areas, as per the declaration given by the developer under this Act.

(4) The allottee shall be entitled to claim the refund of amount paid along with interest at such rate as may be prescribed and compensation in the manner as provided under this Act, from the developer, if the developer fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement for sale or due to

discontinuance of his business as a developer on account of suspension or revocation of his registration under the provisions of this Act or the rules or regulations made thereunder.

(5) The allottee shall be entitled to have the necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building as the case may be, by the developer.

(6) Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under this Act, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.

(7) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under as undertaken under this Act.

(8) The obligations of the allottee as undertaken under this Act and the liability towards interest under as undertaken under this Act may be reduced when mutually agreed to between the developer and such allottee.

(9) Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperativesociety of the allottees, or a federation of the same.

(10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be.

(11) Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building, as the case may be, as provided under this Act.

## CHAPTER V THE REAL ESTATE REGULATORY AUTHORITY

20. Establishment and incorporation of Real Estate Regulatory Authority.—(1) The Federal Government shall, within a period of one year from the date of coming into force of this Act, by notification, establish an Authority to be known as the Real Estate Regulatory Authority to exercise the powers conferred on it and to perform the functions assigned to it under this Act:

Provided that until the establishment of the Authority under this section, the Ministry shall, by order in the transitory period, designate any other Authority to function as the Authority for the purposes under this Act:

Provided also that after the establishment of the Regulatory Authority, all applications, complaints or cases pending with the Regulatory Authority designated, shall stand transferred to the Regulatory Authority so established and shall be heard from the stage such applications, complaints or cases are transferred.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with the power, subject to the provisions of this Act, to hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) On coming into force of this Act, the Ministry shall appoint a person, after due process of advertisement, as a senior administrative officer of the Authority who shall do all the file work for establishment of the Authority and he shall have the responsibility to take any or all steps to get released the seed money from the Government and shall have the authority to spend from the seed money and shall get allocated suitable premises for the office of the Authority and for this purpose he shall have the authority to use the powers of the authority and the Ministry of Interior Government of Pakistan shall extend all possible help to him as and when required by him. The senior administrative officer shall continue to be an employee of the Authority after the Chairperson of the Authority assumes charge.

21. Composition of the Authority.—(1) The Authority shall consist of following six Members which shall be notified by the Ministry in the official Gazette, namely:—

(a) one member to be nominated by the Chairperson of the Pakistan Engineering Council from amongst the members of the Pakistan Engineering Council;

(b) one member to be nominated by the Chairperson of the Pakistan Council of Architects and Town Planners from amongst the members of the Pakistan Council of Architects and Town Planners;

(c) one member to be nominated by the Speaker of the National Assembly from amongst the members of the National Assembly;

(d) one member to be nominated by the Chairman Senate from amongst the members of the Senate;

(e). two members to be selected by a Selection Committee consisting of the Mayor of Islamabad and Chairman, CDA and Joint Secretary Administration of Ministry of Interior. The selection of members of the Authority shall be made from amongst the applicants having post graduate qualification in any field and who are residents of Islamabad for at least forty years and have at least twenty-five years" experience of Government service.

(2) All the persons shall be nominated and selected as members of the Authority by the concerned and shall be notified by the Ministry within sixty days of coming into force of this Act without fail.

(3) As soon as the members have been notified, the Ministry shall call the first meeting where the members of the Authority shall elect a Chairperson of the authority from amongst themselves for a term of five years or till expiry of his term as a member of the authority whichever is longer:

Provided the members are unable to elect a Chairman of the authority, then the Ministry of Interior shall nominate one member of the Authority as the Chairman of the Authority for a term of five years or till expiry of his term as a member of the Authority whichever is longer.

(4) The Quorum of the First meeting and subsequent meetings shall be four members of the Authority present and voting.

(5) The Chairperson of the Authority shall be notified by the Ministry in the official Gazette for a term of five years or till expiry of his term as a member of the authority whichever is longer.

(6) The Chairperson and the members shall dedicate maximum time to the work of the Authority and preferably work on fulltime basis.

(7) If there falls a vacancy of a member, such vacancy shall be filled by the relevant Authorities within thirty days without fail.

(8) The Authority can co-opt any number of technical experts of a field in a meeting of the Authority as it may deem fit and pay them a reasonable honorarium for their services.

22. Age limit of the Chairperson and Members of the Authority on appointment and age of superannuation.—The Chairperson and other Members of the Authority shall be below the age of sixty five years on the date of appointment and shall cease to be The Chairperson and other Members of the Authority upon attaining the age of sixty five years.

23. Terms of office of Chairperson and Members of the Authority—(1) The Chairperson and Members shall hold office for a term not exceeding five years from the date on which they enter upon their office, or until they attain the age of sixty five years, whichever is earlier and shall not be eligible for re-appointment.

(2) Before appointing any person as a Chairperson or Member, the Ministry shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.

24. Salary and allowances payable to Chairperson and Members of the Authority. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as prescribed by the Federal Government and shall not be varied to their disadvantage during their tenure.

25. Resignation and removal of the Chairperson and Members of Authority.—(1) Notwithstanding anything contained in sub-sections (1) of section 23, the Chairperson or a Member, as the case may be, may,—

(a) relinquish his office by giving in writing, to the Federal Government, notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 27 of this Act.

(2) Any vacancy caused to the office of the Chairperson or any other Member shall be filled-up within a period of three months from the date on which such vacancy occurs.

26. **Administrative powers of the Chairperson.**—The Chairperson shall be the Chief Executive and the Principal Accounting Officer of the authority and shall have powers of general superintendence and directions in the conduct of the affairs of Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such administrative powers and functions of the Authority as may be prescribed.

27. **Removal of Chairperson and Members from office in certain circumstances.**—

(1) The Federal Government may, in accordance with the procedure notified, remove from office the Chairperson or other Members, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence, involving moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) any complaint of administrative or financial irregularity and illegality by misuse of his authority as the Chairman of the authority.

(2) The Chairperson of the Authority shall be removed from office as member and as Chairperson by the Federal Government only once. charges against him are adjudged by the appellate tribunal after inquiry. An inquiry about any allegation administrative or financial irregularity and illegality by misuse of his authority as the Chairperson of the authority or any other charge in sub- section (1) above shall be done by an inquiry officer appointed by the appellate tribunal. The Chairperson of the Authority so under trial shall be informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and only then the appellate tribunal shall pass a decision on the charges whether the continuance in office of the chairperson is prejudicial to the public interest or otherwise.

(3) A member of the Authority shall be removed from office as member by the Federal Government only once charges against him are adjudged by the appellate tribunal after inquiry. An inquiry about any allegation administrative or financial irregularity and illegality by misuse of his authority as the member of the authority or any other charge in sub-section (1) above shall be done by an inquiry officer appointed by the appellate tribunal. The member of the Authority so under trial shall be informed of the charges against him and given a reasonable opportunity of

being heard in respect of those charges and only then the appellate tribunal shall pass a decision on the charges whether the continuance in office of the chairperson is prejudicial to the public interest or otherwise.

28. Restriction on Chairperson or Members on employment after cessation of office.—(1) The Chairperson or a Member, ceasing to hold office as such, shall not—

(a) accept any employment in, or connected with, the management or administration of, any person or organization which has been associated with any work under this Act, from the date on which he ceases to hold office:

Provided that nothing contained in this section shall apply to any employment under the Federal Government or a local authority

or in any statutory authority or any corporation established by or under any Federal Act or a Government Company, whose majority shares are held by the Federal or Provincial Government, which is not a developer as per the provisions of this Act;

(b) act, for or on behalf of any person or organization in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; and

(d) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

(2) The Chairperson and Members shall not communicate or reveal to any person any matter which has been brought under his consideration or known to him while acting as such.

29. Officers and other employees of Authority.—(1) The Authority shall appoint such officers and employees, on regular basis or contract basis and appoint inquiry officer or consultants on case to case basis on remunerations decided by the Authority as it considers necessary for the efficient discharge of functions of the Authority and such employees would discharge their functions under the general superintendence of the Chairperson.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the officers and of the employees of the Authority shall be that as decided by the Authority at the time of appointment of the employee. The Authority shall make rules governing the service of the regular employees of the Authority and the Federal Government shall publish these rules in the official Gazette as statutory rules.

30. Meetings of Authority—(1) The Authority shall meet at such places and times, and shall follow such rules of procedure in regard to the transaction of its business, as may be specified by the regulations made by the Authority.

(2) If the Chairperson for any reason, is unable to attend a meeting of the Authority, any other Member chosen by the Members present amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) The questions which come up before the Authority shall be dealt with as expeditiously as possible and the Authority shall dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the Authority shall record its reasons in writing for not disposing of the application within that period.

31. Vacancies etc. not to invalidate proceeding of Authority.—No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or  
(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

32. Filing of complaints with the Authority.—(1) Any aggrieved person may file a complaint with the Authority, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any other Authority, Department, developer, allottee or real estate agent, as the case may be.

Explanation.—For the purpose of this sub-section “person” shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be specified by regulations.

33. Functions of Authority for Promotion of real estate sector.— The Authority shall

in order to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector make recommendations to

the Federal Government of the an authority empowered by law , as the case maybe, on,—

(a) protection of interest of the allottees, developer and real estateagent;

(b) creation of a single window system for ensuring time bound projectapprovals and clearances for timely completion of the project;

(c) creation of a transparent and robust grievance redressal mechanism against acts of commission and commission of competent authorities and their officials;

(d) measures to encourage investment in the real estate sector including measures to increase financial assistance to affordable housing segment;

(e) measures to encourage construction of environmentally sustainable and affordable housing, promoting standardization and use of appropriate construction materials, fixtures, fittings and construction techniques;

(f) measures to encourage grading of projects on various parameters ofdevelopment including grading of developers;

(g) measures to facilitate amicable conciliation of disputes between the developers and the allottees through dispute settlement forums set up by the consumer or developer associations;

(h) measures to facilitate digitization of land records and system towards conclusive property titles with title guarantee;

(i) to render advice to the Federal Government in matters relating tothe development of real estate sector; and

Gj) any other issue that the Authority may think necessary for thepromotion of the real estate sector.

34. Advocacy and awareness measures.—(1) The Federal Government may, while formulating a policy on real estate sector (including review of laws related to real estate sector) or any other matter, make a reference to the Authority for its opinion on possible effect, of such policy or law on real estate sector and on the receipt of such a reference, the Authority shall within a period of sixty days of making such reference, give its opinion to the Federal Government which may thereafter take further action as it deems fit.

(2) The opinion given by the Authority under sub-section (1) shall not be binding upon the Federal Government in formulating such policy or laws.

(3) The Authority shall take suitable measures for the promotion of advocacy, creating awareness and imparting training about laws relating to real estate sector and policies.

35. Functions of Authority.—The functions of the Authority shall include—

- (a) to register and regulate real estate projects and real estate agents registered under this Act;
- (b) to publish and maintain a website of records, for public viewing, of all real estate projects for which registration has been given, with such details as may be prescribed, including information provided in the application for which registration has been granted;
- (c) to maintain a database, on its website, for public viewing, and enter the names and photographs of developers as defaulters including the project details, registration for which has been revoked or have been penalized under this Act, with reasons therefor, for access to the general public;
- (d) to maintain a database, on its website, for public viewing, and enter the names and photographs of real estate agents who have applied and registered under this Act, with such details as may be prescribed, including those whose registration has been rejected or revoked;
- (e) to fix through regulations for each areas under its jurisdiction the standard fees to be levied on the allottees or the developer or the real estate agent, as the case may be;
- (f) to ensure compliance of the obligations cast upon the developers, the allottees and the real estate agents under this Act and the rules and regulations made thereunder;
- (g) to ensure compliance of its regulations or orders or directions made in exercise of its powers under this Act; and
- (h) to perform such other functions as may be entrusted to the Authority by the Federal Government as may be necessary to carry out the provisions of this Act.

36. Power of Authority to delegate any of its functions to another Authority or Department.—The Authority, may temporarily delegate any of its function to another authority or Department on its own or upon an application to the Authority by another authority or Department.

37. Powers of Authority to call for information and conduct inquiry and make assessments.—(1) Where the Authority considers it expedient to do so, on a complaint or suo motu, relating to this Act or the rules or regulations made there under, it may, by order in writing and recording reasons therefor call upon any developer or allottee or real estate agent, as the case may be, at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require and appoint one or more persons to make an inquiry in relation to the affairs of any developer or allottee or the real estate agent, as the case may be.

(2) Notwithstanding anything contained in any other law for the time being in force, while

exercising the powers under sub-section (1), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

- (i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;
- (ii) summoning and enforcing the attendance of persons and examining them on oath;
- (iii) issuing commissions for the examination of witnesses or documents; and
- (iv) any other matter which may be prescribed.

38. Powers of Authority—(1) The Authority shall have powers to impose penalty or interest, in regard to any contravention of obligations cast upon the developers, the allottees and the real estate agents, under this Act or the rules and the regulations made thereunder.

(2) The Authority shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Authority shall have powers to regulate its own procedure.

(3) Where an issue is raised relating to agreement, action, omission, practice or procedure that—

- (a) has an appreciable prevention, restriction or distortion of competition in connection with the development of a real estate project; or
- (b) has effect of market power of monopoly situation being abused for affecting interest of allottees adversely, then the Authority, may take suo motu, make reference in respect of such issue to the Competition Commission of Pakistan or the appellate tribunal under this Act .

(4) All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of Section 193 and 228 of the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Authority shall be deemed to be a court for the purposes of section 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898 ). No court other than Authority shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of Authority extends under this Act.

(5) A person against whom a complaint has been made or any contravention of this Act has come to the knowledge of the Authority by any means shall be proceeded against by the Authority. A complainant or a person against whom a complaint has been made or who has purportedly committed any contravention of this Act can be represented by his duly appointed counsel or representative. The Authority can summon the applicant or appellant or complainant or the person against whom the complaint has been directed to appear in person before the

Authority.

39. Powers to issue interim orders.—Where during an inquiry, the Authority is satisfied that an act in contravention of this Act, or the rules and regulations made thereunder, has been committed and continues to be committed or that such act is about to be committed, the Authority may, by order, restrain any developer, allottee or real estate agent from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where the Authority deems it necessary.

40. Powers of Authority to issue directions.—The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the developers or allottees or real estate agents, as the case may be, as it may consider necessary.

(2) All directions of the Authority shall be binding on all Law enforcement agencies in Islamabad and the District Administration which shall act in assistance of the Authority.

41. Orders of recovery of interest or penalty or compensation and enforcement of Order etc.—(1) If a developer or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the inquiry officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such developer or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.

(2) If any inquiry officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, through the Law enforcement agencies in Islamabad and the District Administration which shall act in assistance of the Authority.

(3) If any inquiry officer or the Regulatory Authority or the Appellate Tribunal passes a penalty.

42. Rectification and review of orders.—The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act.

## CHAPTER VI

## OFFENCES, PENALTIES AND ADJUDICATION

43. Punishment for non-registration by a Developer.—(1) If any developer is working without having valid registration with the Authority or when his registration has been revoked by the Authority, his such working shall be considered an offence punishable with a penalty which may extend up to ten per cent of the estimated cost of the real estate project as determined by the Authority and the Authority may sentence such developer to six months imprisonment.

(2) If any developer does not comply with his duties and undertakings to the allottee and the authority and does not comply with the orders, decisions or directions issued by the Authority, 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 percent of the estimated cost of the real estate project, or with both and shall not remain eligible for registration as a developer or work as a developer within the Jurisdiction of Islamabad Capital territory.

44. Penalty for providing false information.—If any developer provides false information or contravenes the provisions of section 4, he shall be liable to a penalty which may extend up to five percent of the estimated cost of the real estate project, as determined by the Authority.

45. Punishment for non-registration by a Real Estate Agent.—If any Real Estate Agent is working without having valid registration with the Authority or when his registration has been revoked by the Authority, his such working shall be considered an offence punishable with a penalty as may be determined and imposed by the Authority and the Authority may sentence such Real Estate Agent to six months imprisonment and he shall not remain eligible for registration as a Real Estate Agent or work as Real Estate Agent within the Jurisdiction of Islamabad Capital Territory.

46. Penalty for failure to comply with orders of Authority by Developer.—If any developer, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent, of the estimated cost of the real estate project as determined by the Authority.

47. Penalty for failure to comply with orders of Authority by allottee.—If any allottee, who fails to comply with, or contravenes any of the orders, decisions or directions of the Authority he shall be liable to a penalty for the period during which such default continues, which may cumulatively extend up to five percent of the plot, apartment or building cost, as the case may be, as determined by the Authority.

48. Penalties of violation of provisions of this Act by a Developer or any Office Bearers of any other Authority or Department or Company or Developer, etc. by Developers and Companies.—(1) Where any contravention of this Act or any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, or 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 under this Act 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 an offence under this Act has 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 negligence on the part of any director or employee of the company, such director or employee shall also 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.

(3) Where any contravention of this Act has been committed by a Developer, a local authority, a local Government or a body corporate or institution and it appears from the relevant documents that such offence has been committed with the consent or connivance of or is attributed to any negligence on the part of any director, partner, manager, secretary or other officer of the body corporate or institution such director, partner, manager, secretary or other officer of the body corporate or institution, shall be deemed guilty of such contravention along with the body corporate or institution and shall be an offence punishable by the Authority by a sentence of imprisonment for a term which may extend to one year but shall not be less than six months, or with fine which may extend to Five Hundred Thousand Rupees:

Provided that in the case of a company as defined under the Companies Act, 2017 (XIX of 2017), only its Chief Executive shall be liable under this section.

Explanation.—For the purposes of this section, “body corporate or institution” includes a firm, association of persons and a society registered under the Societies Registration Act, 1860 (XXI of 1860) or under the Co-operative Societies Act, 1925 (VII of 1925).

(4) Where any contravention of this Act has been committed by any Government Agency, any local authority or local Council and it appears from the relevant documents that such contravention has been committed with the consent or connivance of or is attributable to any negligence on the part of the Head or any other officer of the Government Agency, local authority or local Council,

such Head or other officer it shall be an offence punishable by the Authority by a sentence of imprisonment for a term which may extend to one year but shall not be less than six months, or with fine which may extend to Five Hundred Thousand Rupees.

49. Compounding of Offences.—Notwithstanding anything contained in the Code of Criminal Procedure, if any person is punished with imprisonment under this Act, the punishment may, either before or after the institution of the prosecution, be compounded by the court on such terms and conditions and on payment of such sums as may be prescribed:

Provided that the sum prescribed shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded.

## CHAPTER VII THE REAL ESTATE APPELLATE TRIBUNAL

50. Establishment of the Real Estate Appellate Tribunal—1) The Federal Government shall, within a period of three months from the date of coming into force of this Act, by notification, establish an Appellate Tribunal to be known as the Federal Real Estate Appellate Tribunal.

(2) The Federal Government may, if it deems necessary, establish one or more benches of the Appellate Tribunal, for various jurisdictions, as the case may be:

Provided that, until the establishment of an Appellate Tribunal under this section, the Federal Government shall designate, by order, any Appellate Tribunal Functioning under any law for the time being in force, to be the Appellate Tribunal to hear appeals under the Act.

51. Composition of Appellate Tribunal.—The each bench of the Appellate Tribunal shall consist of three Members.

52. Appointment and Qualification of Chairperson and Members of Appellate Tribunal.—(1) A person shall not be qualified for appointment as the Chairperson unless he is or has been a Judge of a High Court and shall be appointed by the Ministry of Law, Government of Pakistan;

(2) in the case of other members, a person shall not be qualified for appointment if he has not held the post of Joint Secretary to the Government of Pakistan or an equivalent post in the Federal Government or an equivalent post in the Provincial Government or a statutory autonomous body.

(3) The Chairperson or a Member of the Tribunal, as the case may be, shall not be below the age of sixty years.

(4) The Chairperson of the Appellate Tribunal shall be appointed by the Ministry of Law, Government of Pakistan in consultation with the Mayor of Islamabad which shall not be binding on the Ministry of Law, Government of Pakistan in this regard.

(5) The other members of the Appellate Tribunal shall be appointed by the Ministry of Interior, Government of Pakistan on the recommendations of a Selection Committee consisting of the Mayor of Islamabad, the Chairman CDA and Joint Secretary of the Ministry of Interior and Joint Secretary of the Ministry of Law.

(6) The Chairperson and the members of the Appellate Tribunal shall be notified in the official Gazette by the Ministry of Interior, Government of Pakistan.

53. Term of Office of Chairperson and Members.—(1) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall hold office, as such for a term not exceeding five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Provided that the Chairperson or member of the Tribunal, he shall not hold office after he has attained the age of sixty-five years.

(2) Before notifying any person as Chairperson or Member, the Ministry of Interior, Government of Pakistan shall satisfy itself that the person does not have any such financial or other interest, as is likely to affect prejudicially his functions as such member.

54. Salary and allowances payable to Chairperson and Members of the Appellate Tribunal.—The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed by the Federal Government and shall not be varied to their disadvantage during their tenure.

55. Resignation and Removal of Chairperson and Members of the Appellate Tribunal.—Notwithstanding anything contained in section 52 and 53, the Chairperson or a Member, as the case may be, may:—

(a) relinquish his office by giving in writing to the Federal Government notice of not less than three months; and

(b) be removed from his office in accordance with the provisions of section 57.

56. Filling of vacancies.—A vacancy caused to the office of the Chairperson or any other Member, as the case may be, shall be filled-up by the relevant authorities and the process within a period of one month from the date on which such vacancy occurs.

57. Removal of Chairperson and Members from office in certain circumstances.—

(1) The Federal Government may, in consultation with the Mayor of Islamabad, remove from office of the Chairperson or any Member of the Appellate Tribunal, who—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Federal Government involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or any Member shall not be removed from his office except by an order made by the Federal Government after an inquiry made by the Mayor of Islamabad in which such Chairperson or Judicial member or Technical or Administrative Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Federal Government may suspend from the office of the Chairperson or Member in respect of whom a reference of conducting an inquiry has been made to the Mayor of Islamabad under sub-section (2), until the Federal Government passes an order on receipt of the report of inquiry made by the Mayor of Islamabad on such reference.

(4) The Federal Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

58. Restriction on Chairperson or Members of the Appellate Tribunal on

employment.—(1) The Chairperson or Member, ceasing to hold office as such shall not:—

(a) Accept any employment in, or connected with, the management or administration of, any person or organization which has been associated with any work under this Act, from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the Federal Government or a local authority or in any statutory authority or any corporation established by or under any Federal or provincial Act or a Government Company, whose majority shares are held by the Federal or provincial Government, which is not a developer as per the provisions of this Act;

(b) act, for or on behalf of any person or organization in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or Judicial Member or Technical or Administrative Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity

as the Chairperson or Member and being unavailable or not being able to be made available to the public;

(d) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

(2) The Chairperson or Judicial Member or Technical or Administrative Member shall not communicate or reveal to any person any matter which has been brought under his consideration or known to him while acting as such.

59. Transfer of Appeals.—(1) All cases regarding real estate Sector pending in any court of law, shall be transferred to the Appellate Tribunal designated to hear appeals and shall be heard from the stage such appeal is transferred.

(2) Any person aggrieved by any direction or decision or order made by the Authority under this Act may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter.

(3) Where a developer files an appeal with the Appellate Tribunal against a case which had been decided in favour of an allottee by any forum or

the Authority, it shall not be entertained, without the developer first having deposited with the Appellate Tribunal at least thirty per cent of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.

Explanation.—For the purpose of this sub-section “person” shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

60. Application for settlement of disputes and appeals to appellate Tribunal.\_(1)

The Federal Government or an authority empowered by law or any person aggrieved by any direction or order or decision of the Authority or the inquiry officer may prefer an appeal to the Appellate Tribunal.

(2) Every appeal made under sub-section (1) shall be preferred within a period of sixty days from the date on which a copy of the direction or order or decision made by the Authority or the inquiry officer is received by the Federal Government or the authority empowered by law or the aggrieved person and it shall be in such form and accompanied by such fee, as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may after giving the parties an opportunity of being heard, pass such orders, including interim orders, as it

thinks fit.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties and to the Authority or the inquiry officer, as the case may be.

(5) The appeal preferred under sub-section (1), shall be dealt with by it as expeditiously as possible and endeavor shall be made by it to dispose of the appeal within a period of sixty days from the date of receipt of appeal:

Provided that where any such appeal could not be disposed of within the said period of sixty days, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

(6) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any order or decision of the Authority or the inquiry officer, on its own motion or otherwise, call for the records relevant to depositing of such appeal and make such orders as it thinks fit.

61. Appraisal and Inquiry Officer of the Appellate Tribunal or the Authority.—(1)

For the purpose of assessing compensation and to conduct an inquiry and to submit recommendations to it, the Appellate Tribunal or the Authority, as the case may be, shall appoint a person on case to case basis where such person has been a Judge in any court of law in Pakistan. The Inquiry Officer shall give any person charged or concerned with the matter a reasonable opportunity of being heard. The Inquiry officer shall have the responsibility and exclusive jurisdiction to,—

(a) to conduct an inquiry and to submit recommendations to it, the Appellate Tribunal or the Authority on any charge against any person referred to it by the Appellate Tribunal or the Authority as the case may be;

(b) make an assessment on any matter of compensation or any evaluation of worth of a real estate or any claim in any matter of a real estate and submit recommendations to it, the Appellate Tribunal or the Authority, as the case may be after hearing parties; and

(c) to conduct an investigation on any allegation of financial or administrative irregularities against the chairperson or any member or any officer or official of the Authority and present his recommendations to his appointing authority the Appellate Tribunal or the Authority as the case may be;

(2) The inquiry officer shall be bound by the procedure laid down by the Code of Civil Procedure, 1908 (Act No. V of 1908) and by the rules of evidence contained in the Qanun-e-Shahadat order, 1984 (P. O. No. X of 1984).

(3) The inquiry officer shall have, for the purpose of discharging his functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in

respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examinations of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or directing it ex parte; and
- (g) any other matter which may be prescribed.

(4) The inquiry officer shall be assisted by the local law enforcement agencies in the discharge of his duties.

(5) The application for adjudging compensation under sub-section (1), shall be dealt with by the inquiry officer as expeditiously as possible and dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the inquiry officer shall record his reasons in writing for not disposing of the application within that period.

(6) While holding an inquiry the inquiry officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the inquiry officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub- section (1), he may direct to pay such compensation or interest, as the case may be, as he thinks fit in accordance with the provisions of any of those sections.

62. Factors to be taken into account by inquiry officer— While adjudging the quantum of compensation or interest, as the case may be, under section 61, the inquiry officer

shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default; and

(d) such other factors which the inquiry officer considers necessary to the case in furtherance of justice.

63. Officers and other employees of Appellate Tribunal.—(1) The Federal Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson of the Appellate Tribunal.

(3) The salary and allowances payable to, and the other terms and conditions of service of, the officers and employees of the Appellate Tribunal shall be such as may be prescribed.

64. Powers of Tribunal.—(1) The Appellate Tribunal shall be bound by the procedure laid down by the Code of Civil Procedure, 1908.

(2) The Appellate Tribunal shall also be bound by the rules of evidence contained in the Qanun-e-Shahadat, 1984.

(3) The Appellate Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examinations of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or directing it ex parte; and

(g) any other matter which may be prescribed.

(4) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Appellate Tribunal shall be deemed to be a court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898). No court other than Appellate Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of Appellate Tribunal extends under this Act.

65. Administrative Powers of the Chairman of Appellate Tribunal.—The

Chairperson shall have powers of general superintendence and direction in the conduct of the affairs of Appellate Tribunal and he shall, in addition to presiding over the meetings of the Appellate Tribunal exercise and

discharge such administrative powers and functions of the Appellate Tribunal as may be prescribed.

66. Vacancies etc. not to invalidate proceeding of Appellate Tribunal.—No act or proceeding of the Appellate Tribunal shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Appellate Tribunal, or

(b) any defect in the appointment of a person acting as a Member of the Appellate Tribunal; or

(c) any irregularity in the procedure of the Appellate Tribunal not affecting the merits of the case.

67. Right to legal representation.—The applicant or appellant or complainant may either appear in person or authorize one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal or the Regulatory Authority or the inquiry officer, as the case may be. The Appellate Tribunal can summon the applicant or appellant or complainant or the person against whom the complaint has been directed to appear in person before the Appellate Tribunal or the Regulatory Authority or the inquiry officer, as the case may be.

68. Orders passed by the Appellate Tribunal to be executable as a decree.—(1)

Every order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by the court.

69. Penalty for failure to comply with orders of Appellate Tribunal by Developer.—

If any developer, who fails to comply with, or contravenes any of the orders, decisions or directions of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend up to three years or with fine for every day during which such default continues, which may cumulatively extend up to ten percent of the estimated cost of the real estate project, or with both.

70. Penalty for failure to comply with orders of Appellate Tribunal by Real Estate Agent.—If any real estate agent, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent of the estimated cost of plot,

apartment orbuilding, as the case may be, of the real estate project, for which the sale or purchase has been facilitated and as determined by the Authority.

**71. Penalty for failure to comply with orders of Appellate Tribunal by Real Estate Agent.**—If any real estate agent, who fails to comply with, or contravenes any of the orders, decisions or directions of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend up to one year or with fine for every day during which such default continues, which may cumulatively extend up to ten percent of the estimated cost of plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated, or with both.

**72. Penalty for failure to comply with orders of Appellate Tribunal by allottee.**—If any allottee, who fails to comply with, or contravenes any of the orders or directions of the Appellate Tribunal, as the case may be, he shall be punishable with imprisonment for a term which may extend up to one year orwith fine for every day during which such default continues, which may cumulatively extend up to ten percent of the plot, apartment or building cost, as the case may be, or with both.

**73. Appeal to High Court.**—(1) Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the Islamabad High Court, within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (Act No. Vof 1908):

Provided that the Islamabad High Court may entertain the appeal afterthe expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

## **CHAPTER VIII** **FINANCE, ACCOUNTS, AUDITS AND REPORTS**

**74. Grants and Loans by Federal Government.**—The FederalGovernment may, after due appropriation made by the Parliament in this behalf, make to the Authority any grants and loans of such sums of money as seed money that Government may consider necessary and release it to the senior Administration Officer of the Authority to spend it on establishment of the office of the Authority with the assistance of the Ministry of Interior, Government of Pakistan. The Authority, in time, shall generate its own sources of funding for its function as well.

**75. Constitution of Fund.**—(1) The Federal Government shall constitute a fund to be called the „Real Estate Regulatory Fund" and there shall becredited thereto,—

(a) all Government grants received by the Authority;

(b) the fees received under this Act; and

(c) the interest accrued on the amounts referred to in clauses (a) to (b).

(2) The Fund shall be spent on—

(a) the salaries and allowances payable to the Chairperson and other Members, the inquiry officer and the administrative expenses including the salaries and allowances payable to the officers and other employees of the Authority and the Appellate Tribunal; and

(b) the other expenses of the Authority in connection with its establishment and the discharge of its functions and for the purposes of this Act.

(3) The Fund shall be administered by a committee of such Members of the Authority as may be determined by the Chairperson and before appointment of any Members of the Authority or its Chairperson, by the Administration Officer of the Authority.

(4) The committee appointed under sub-section (3) shall spend monies out of the Fund for carrying out the objects for which the Fund has been constituted.

76. Crediting sums realized by way of penalties to the Fund.—All sums realized by way of penalties imposed by the Appellate Tribunal or the Authority shall be credited to the Federal treasury.

77. Budget, accounts and audit.—(1) The Authority shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Federal Government in consultation with the Auditor General of Pakistan.

(2) The accounts of the Authority shall be audited by the Auditor General of Pakistan at such intervals as may be specified by him and any

expenditure incurred in connection with such audit shall be payable by the Authority to the Auditor General of Pakistan.

(3) The Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audits as the Auditor General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand and production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Auditor-General of Pakistan or any

other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Federal Government by the Authority and the Federal Government

shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament (the Federal Legislature).

78. Annual report.—(1) The Authority shall prepare once in every year, in such form and at such time as may be prescribed by the Federal Government,—

- (a) a description of all the activities of the Authority for the previous year;
- (b) the annual accounts for the previous year; and
- (c) the programmes of work for the coming year.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the Parliament.

## CHAPTER IX MISCELLANEOUS

79. Bar of jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the inquiry officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

80. Delegation.—The Authority may, by general or special order in writing, delegate to any other Authority or Department or any member of

Authority, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act, except the power to make regulations under this Act, as it may deem necessary.

81. Power to supersede Authority.—(1) If, at any time, the Federal Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Federal Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Federal Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and

(d) appoint a person and may direct him to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Federal Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Federal Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Federal Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

(4) The Federal Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament.

82. Power to issue Directions to Authority and obtain reports and returns.—(1)

Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy, as the Federal Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) If any dispute arises between the Ministry and the Authority as to whether a question is or is not a question of policy, the decision of the Federal Government thereon shall be final.

(3) The Authority shall furnish to the Ministry such returns or other information with respect to its activities as the Ministry may, from time to time, require.

83. Powers to make rules.—(1) The Federal Government, within a period of six months of the commencement of this Act, by notification, make rules for carrying out the provisions of this Act in particular, and without prejudice to the generality of the foregoing power and publish them in the official Gazette, such rules may provide for all or any of the following matters,

namely:—

(a)

(b)

(d)

(e)

(f)

(g)

(h)

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GQ)

(k)

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(m)

standard fees to be levied on the developer, the allottees or the real estate agent for registration and renewal of registration with the Authority under this Act;

the maintenance and preservation of books of account, records and documents of the Authority;

the administrative powers of the Chairperson of the Authority and the salaries and allowances payable to, and the other terms and conditions of the Chairperson and members of the Authority;

the manner of inquiry by the Inquiry Officer , authority and appellate Authority; the additional functions which may be performed by the Authority;

the manner of implementation of the order, direction or decisions of the inquiry officer, the Authority or the Appellate Tribunal under this Act;

the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Authority and Appellate Tribunal;

the procedure for inquiry of the charges of administrative or financial irregularities against the Chairperson or Member of the Tribunal;

the powers of the Chairperson of the Appellate Tribunal;  
the form to be specified in which the Authority shall prepare a budget, maintain proper accounts and other relevant records and prepare an annual statement of

accounts under sub-section (1) of section 77;

the form in which and time at which the Authority shall prepare an annual report under sub-section (1) of section 78;

any other matter which is to be, or may be, prescribed; and

any other powers of the Authority or the Appellate Tribunal.

(2) The Authority, within a period of six months of the commencement of this Act, by notification, make rules for carrying out the provisions of this Act in particular, and without prejudice to the generality of the foregoing power and publish them in the official Gazette by its own authority, such rules may provide for all or any of the following matters, namely:—

(a)

(b)

(d)

(e)

(f)

(g)

(h)

Application form and manner of making application and fee and information and documents with the application by the Developerto Authority for his registration;

the discharge of other functions by the real estate agent underclause (e) of section 10;

the rate of interest payable under any provision of this Act;

the administrative powers of the officers and other employees of the Authority and the salaries and allowances payable thereto, and the other terms and conditions of their service;

the administrative powers of the officers and other employees of the Appellate Tribunal and the salaries and allowances payable thereto, and the other terms and conditions of service of, the officers and employees of the Appellate Tribunal;

the details to be published on the website by the Authority and the developer;

the manner of recovery of interest, penalty and compensation from the developer; and

any other matter which is to be, or may be, prescribed.

84. Powers to make regulations of the authority.— (1) The Authorityshall, within a period of three months of its establishment, by notification, make regulations, consistent with this Act and the rules made thereunder to carry outthe purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a)

(b)

(c)

(d)

the form and manner of making application and fee payable herewith under sub-section (1) of section 4;

the form of application and the fees for extension of registration under section 6;

such other information and documents required under clause (f) of sub-section (1) of section 11;

display of sanctioned plans, layout plans along with specifications, approved by

the an authority empowered by law, for display under clause (a) of sub-section (3) of section 11;

(e) preparation and maintenance of other details under sub-section (6) of section 11;

(f) time, places and the procedure in regard to transaction of businessat the meetings of the Authority under sub-section (1) of section 30;

(g) the form, manner and fees for filing a complaint under sub-section (2) of section 32; and

(h) any other matter which is required to be, or may be, specified by regulation or in respect of which provision is to be made by regulation.

85. Members etc. to be public servants.— The Chairperson, Members and other officers and employees of the Authority, and the Appellate Tribunaland the inquiry officer shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

86. Act to have overriding effect.— The provisions of this Act shall have an overriding effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

87. Protection of actions taken in good faith.— No suit, prosecution or other legal proceedings shall lie against the Federal Government or the Authority or any officer of the Federal Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder as determined by the Appellate Tribunal under this Act.

88. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, by order, published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiryof two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as maybe, before each House of the Parliament.