

Real Estate (Regulation & Development) Act, 2016

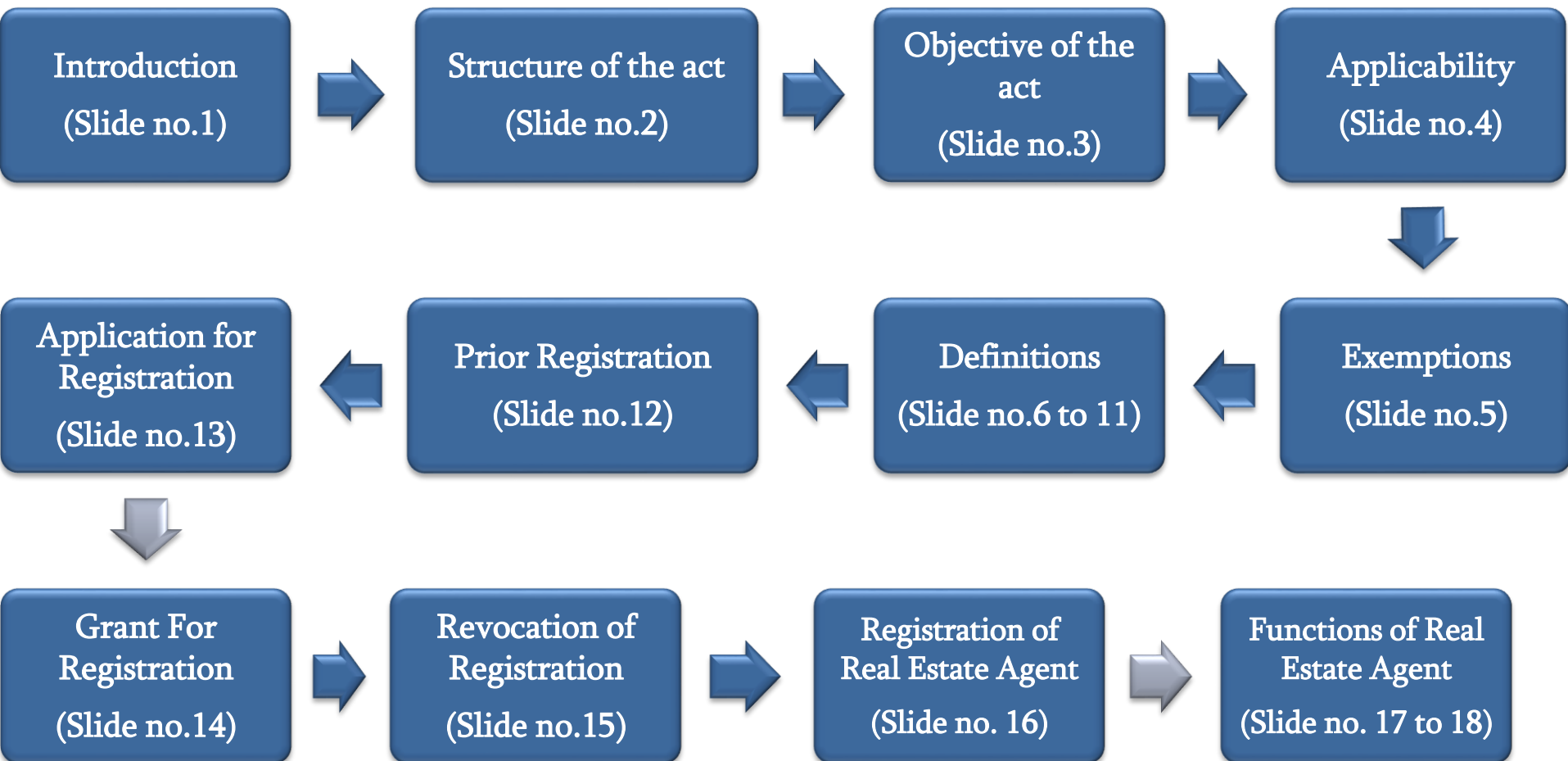
RAMANAND GOYAL & COMPANY

CHARTERED ACCOUNTANTS

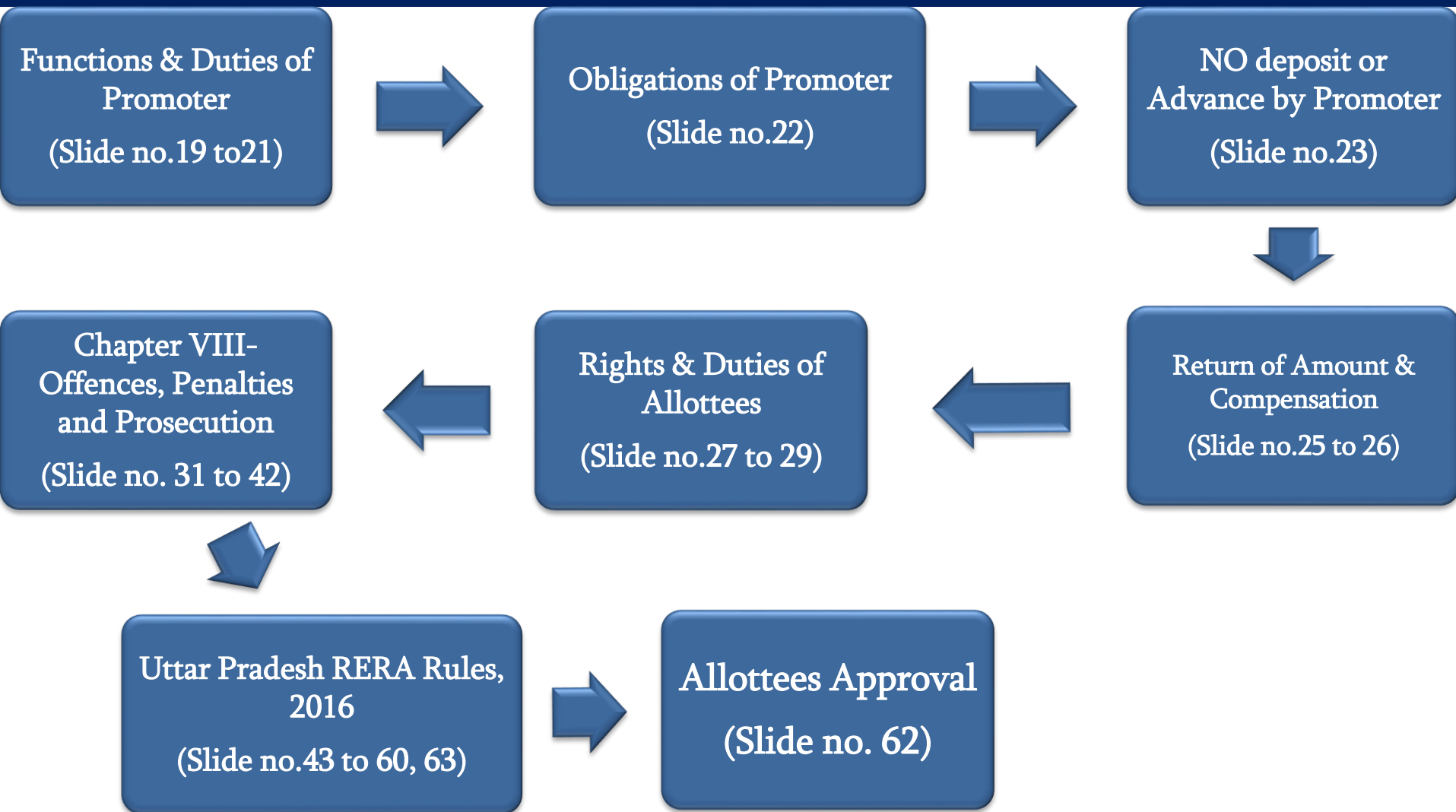


Key Highlights and Important Provisions

Scheme of the Presentation



Scheme of the Presentation

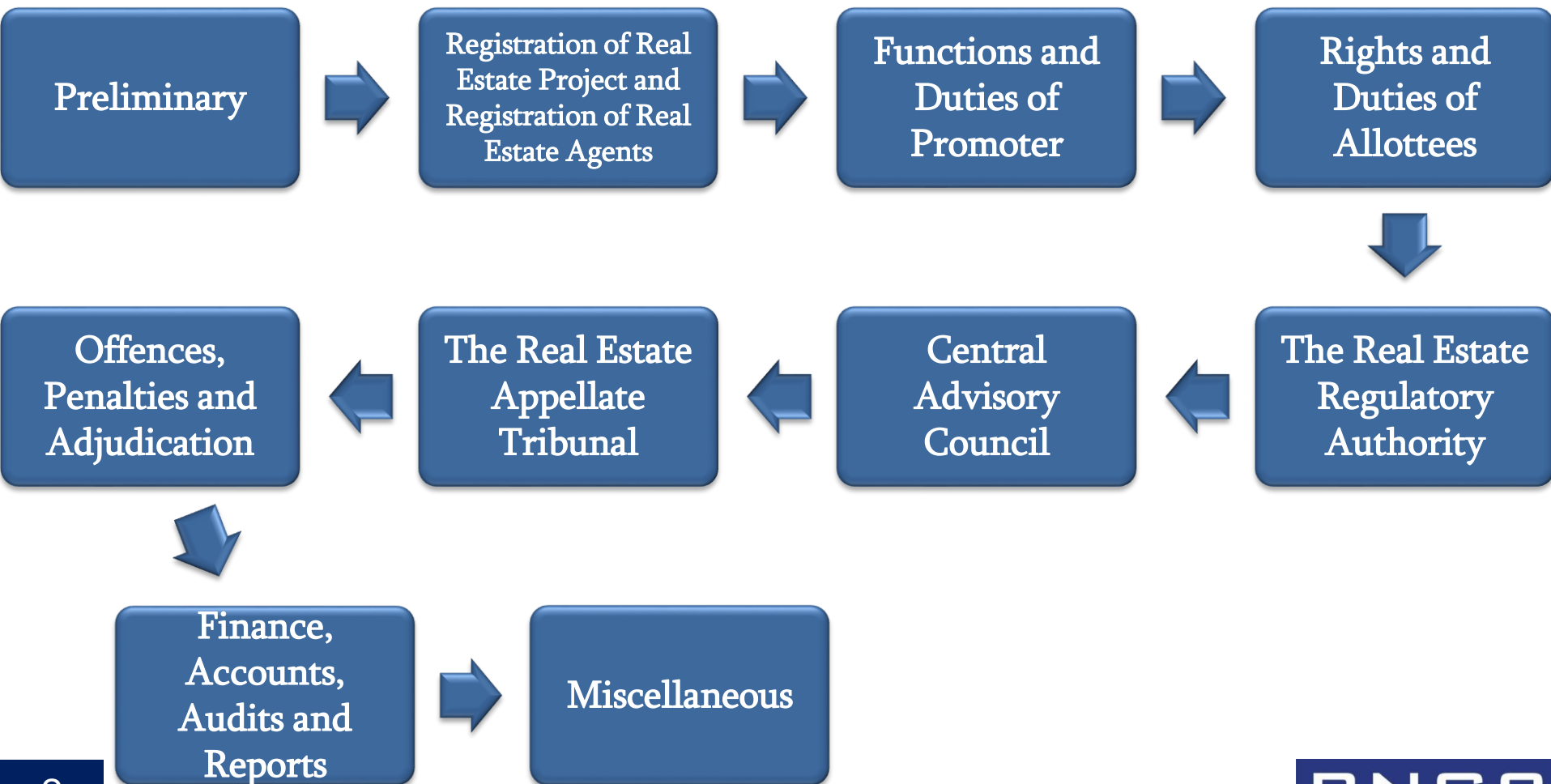


Introduction

- The Act came into force w.e.f. May 1st, 2017
- Each & Every Real Estate Project, Real Estate Developer & Real Estate Agent in India has to “**Compulsorily**” register under the Act as per the prescribed procedures with **Real Estate Regulatory Authority** (RERA).
- Developers/Agents shall not be able to offer any Real Estate Project(s) or Product(s) to Customers & Investors without registering themselves and their project or product, with RERA.

Structure of the Act

➤ Real Estate Regulation and Development Act has 10 Chapters and 92 Sections. These are as under:-



Objective

- To establish the Real Estate Regulatory Authority.
- Regulation and Promotion of the Real Estate Sector;
- To ensure sale of plot, apartment or buildings or sale of real estate project in an efficient and transparent manner;
- To protect the interest of the consumers in real estate sector;
- To establish an adjudicating mechanism for speedy dispute redressal and to establish the Appellate Tribunal.

Applicability

- Act applies to:-
 - Commercial Real Estate projects including shops, offices, showrooms, Godowns
 - Residential Apartments
 - Plotted Developments
 - Ongoing projects in respect of which completion certificates have not been issued (Exclusions as per Uttar Pradesh RERA Rules, 2017 stated at slide no.53)
- Real Estate projects developed in phases would require registration for each phase separately

Exemptions

- Projects being developed on land less than 500 square meters(0.05 hectare or 0.12 acre)
- Number of units does not exceed 8 (all phases)
- Obtained completion certificate for the project before the commencement of the Act
- Redevelopment Real Estate projects where no new allotments are to be made
- Renovation/ Repair – Not involving marketing, advertisement, selling or allotment of any apartment, plot or building
- Does not cover sale of ready to occupy property in the resale market

Definitions (Sec.2)

- “Advertisement”- means any document 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 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.
- “Allottee”- in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent

Definitions (Sec.2)...

- **“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.
- **“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

Definitions (Sec.2)...

- "Commencement Certificate" - means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan.
- "Completion Certificate" - means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws.
- "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.

Definitions (Sec.2)...

- “Internal Development works” - means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage 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.
- “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 appropriate Government or any competent authority and includes any area designated by the appropriate Government or the competent authority 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.
- “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 competent authority prior to start of a real estate project.

Definitions (Sec.2)...

- "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.
- "Real Estate Project" - means the development of 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 or apartment, 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.
- "Company" :- means a company incorporated and registered under the Companies Act, 2013 and includes,—
 - (i) a corporation established by or under any Central Act or State Act;
 - (ii) a development authority or any public authority established by the Government in this behalf under any law for the time being in force.

Definitions (Sec.2)...

➤ “Promoter” :- means,—

- (i) 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 and includes his assignees; or
- (ii) a person who develops land into a project, whether or not the 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, whether with or without structures thereon; or
- (iii) 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; 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; or
- (iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; 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 promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made there under.

Prior Registration of Real Estate Project with Real Estate Regulatory Authority (Sec.3)

- **No project can be advertised, booked, sold, offered in any form prior to registration and obtaining necessary construction approvals.**
- **Any real estate project more than 500 square meters or more than 8 apartment has to be registered with the Regulator.**
- **Projects without completion certificate is now required to be registered within a period of 3 months from the date of commencement of this act.**
- **Each phase of the project is to be registered separately as a stand alone project.**

Application for Registration of Real Estate Project (Sec.4)

- Every promoter 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. (As per Uttar Pradesh RERA Rules, 2017 Additional documents required to submit slide No.49)
- The Authority shall operationalise a web based online system for submitting applications for registration of projects within a period of one year from the date of its establishment.

Grant of Registration (Sec.5)

- RERA to grant or reject registration application within 30 days.
- RERA within 30 days to accept or reject the registration. If no intimation within 30 days, project is deemed to be accepted.
- Registration is valid for the period of completion of the project. May be extended by a year on very limited grounds and payment of fees.
- On registration, promoter gets a registration number, login id and password to Authority's website to create his own page and provide project details.

Revocation of Registration (Sec.7)

- Registration may be revoked on a complaint/ suo moto if:-
 - (i) promoter defaults under the Act, Rules, Regulations,
 - (ii) violates the terms of the approval for the project,
 - (iii) involved in unfair or irregular practices.
 - (iv) the promoter indulges in any fraudulent practices.
- The registration granted to the promoter under section 5 shall not be revoked unless the Authority has given to the promoter not less than 30 days notice, in writing, stating the grounds on which it is proposed to revoke the registration, and has considered any cause shown by the promoter within the period of that notice against the proposed revocation.

Registration of Real Estate Agent (Sec.9)

- 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, in a real estate project or part of it, being the part of the real estate project registered u/s 3, being sold by the promoter in any planning area, without obtaining registration under this section.
- The Authority shall, within such period, in such manner and accompanied by such fees and upon satisfying itself of the fulfillment of such conditions, as may be prescribed—
 - (a) grant a single registration to the real estate agent for the entire State of Union territory, as the case may be;
 - (b) 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 there under.

Functions of Real Estate Agent (Sec.10)

➤ Every real estate agent registered u/s 9 shall:-

- a) Not facilitate the sale or purchase of any plot, apartment or building, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority,
- b) maintain and preserve such books of account, records and documents as may prescribed,
- c) not involve himself in any **unfair trade practices**,
- d) 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,
- e) Discharge such other functions as may be prescribed.

Functions of Real Estate Agent (Sec.10)..

➤ 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 that the promoter or himself has approval or affiliation which such promoter or himself does not have;

(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.

Functions and Duties of Promoter(Sec.11)

- The promoter after receiving his Login Id and password shall create his web page on the website of the Authority and enter all details of the proposed project as provided u/s 4(2) , 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.
- The advertisement or prospectus issued or published by the promoter 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.

Functions and Duties of Promoter(Sec.11)..

- The promoter 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 competent authority, 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.
- “Occupancy Certificate” :- It is a certificate issued by the competent (local) authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructures such as water, sanitation and electricity.

Functions and Duties of Promoter(Sec.11)..

- The promoter shall be responsible -
 - (a) 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,
 - (b) To obtain the completion certificate or the occupancy certificate, or both,
 - (c) To obtain the lease certificate,
 - (d) be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees;
 - (e) 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,
 - (f) execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority,
 - (g) pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees
 - (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.

Obligations of promoter regarding veracity of the Advertisement or Prospectus (Sec.12)

- 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 promoter in the manner as provided under this Act.
- If the affected person 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.

No deposit or advance to be taken by promoter without first entering into agreement for sale (Sec.13)

- Only Up to 10% of cost of apartment, plot of building can be received as advance payment / application fee before entering into a written agreement of sale and balance to be received only after agreement.
- The agreement for sale 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 promoter to the allottee and the allottee to the promoter in case of default, and such other particulars.

Some Important Sections

- **Section 14 :- Adherence to sanctioned plans and project specifications by the promoter**
- **Section 15 :- Obligations of promoter in case of transfer of a real estate project to a third party**
- **Section 16 :- Obligations of promoter regarding insurance of Real Estate project**
- **Section 17 :- Transfer of Title**

Return of Amount and Compensation (Sec.18)

- (1) If the promoter 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. **(As per Uttar Pradesh RERA Rules, 2017 interest and compensation has to be paid within 45 days from the date on which such refund along with interest and compensation, becomes due.)**
- Where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.
- (2) The promoter 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 subsection shall not be barred by limitation provided under any law for the time being in force.

Required to pay Compensation

- Developers are required to refund and pay compensation to the allottees with an Interest rate of State Bank of India's **highest marginal cost of lending rate (MCLR) plus 2%** , within 45 days of it becoming due. Interest rates are expected to range anywhere around 11% -12 %.

Rights and Duties of Allottees (Sec. 19)

- The allottee shall be entitled to-
- (1) Obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information or the agreement for sale signed with the promoter.
 - (2) 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 promoter and the allottee in accordance with the terms and conditions of the agreement for sale.
 - (3) 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 promoter under sub-clause (C) of clause (I) of subsection (2) of section 4.
 - (4) 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 promoter, if the promoter 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 there under.

Rights and Duties of Allottees (Sec. 19)...

(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 promoter.

(6) Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under section 13, 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 sub-section (6).

(8) The obligations of the allottee under sub-section (6) and the liability towards interest under sub-section (7) may be reduced when mutually agreed to between the promoter and such allottee.

Rights and Duties of Allottees (Sec. 19)...

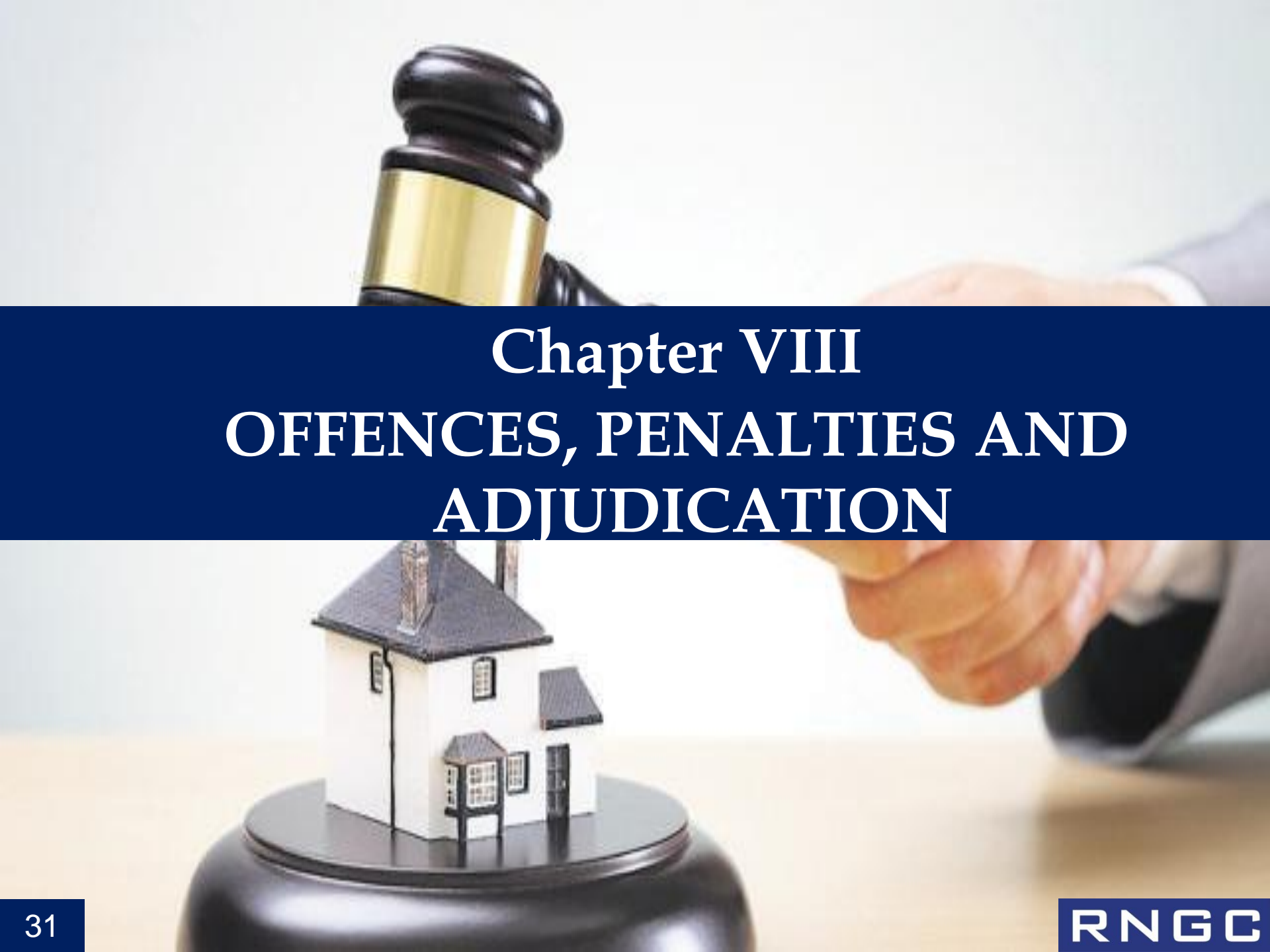
(9) Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperative society of the allottees, or a federation of the same.

(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 u/s 17(1) of this Act.

Chapters

- Section 20 to 40 :- The Real Estate Regulatory Authority
- Section 41 to 42 :- Central Advisory Council
- Section 43 to 58 :- The Real Estate Appellate Tribunal

A hand in a suit sleeve holds a wooden gavel with a gold band. Below the gavel, a miniature white house with a dark roof sits on a black circular base, which is part of a larger scale. The background is a light, neutral color.

Chapter VIII

OFFENCES, PENALTIES AND ADJUDICATION

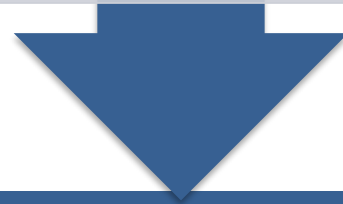
Punishment for non-registration u/s 3 (Sec.59)

Any Promoter

Contravenes the provisions of sec
3

Then he shall be liable to a
penalty which may extend up to
10%

Of the estimated cost of the real
estate project
(as determined by the
Authority).



Any Promoter

Does not comply with the orders,
decisions or directions issued
under sub-section (1) or
continues to violate the
provisions of section 3,

He shall be punishable with
imprisonment for a term which
may extend **up to 3 years** or

With fine which may extend up
to a **further 10 %** of the
estimated cost of the real estate
project, or with both.

Penalty for contravention of sec.4 (Application for Registration) (Sec.60)

Any promoter provides
false information

Or contravenes the
provisions of sec.4

Then penalty shall be leviable
up to 5% of the Estimated
cost of the Real Estate Project
(As determined by the
Authority)

Penalty for contravention of other provisions of the act (Sec.61)

Any promoter
contravenes
any other
provisions of
this act

Other than
that
provided u/s
3 and 4

He shall be liable for penalty
which may extend **up to 5 %**
of the estimated cost of the
Real Estate Project (As
determined by the
Authority)

Penalty for non-registration and contravention u/s 9 & 10 (Sec.62)

Any real estate agent fails to comply with or contravenes the provisions of section 9 or section 10



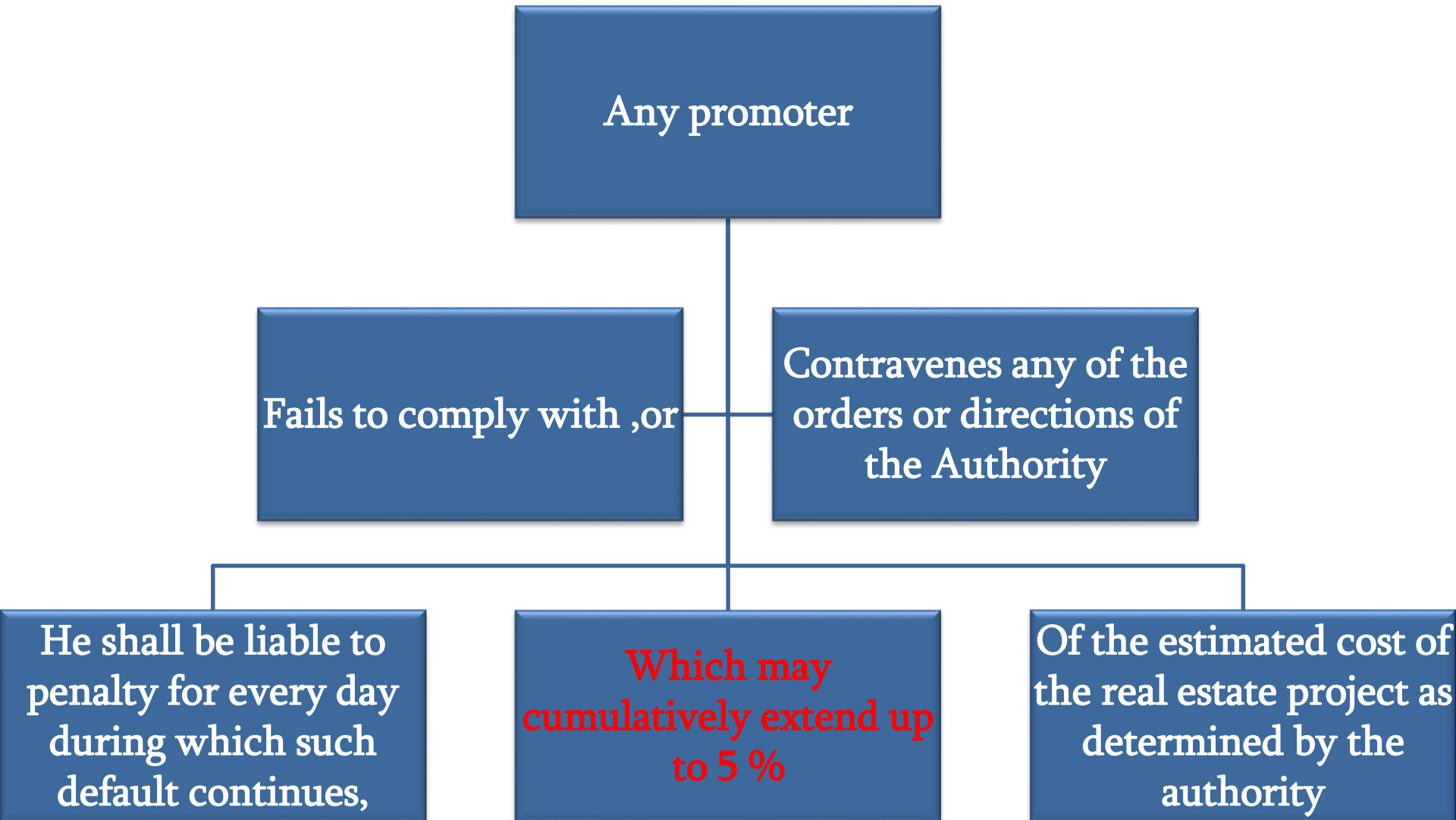
Then, Penalty of **Rs.10,000 for every day** during which such default continues



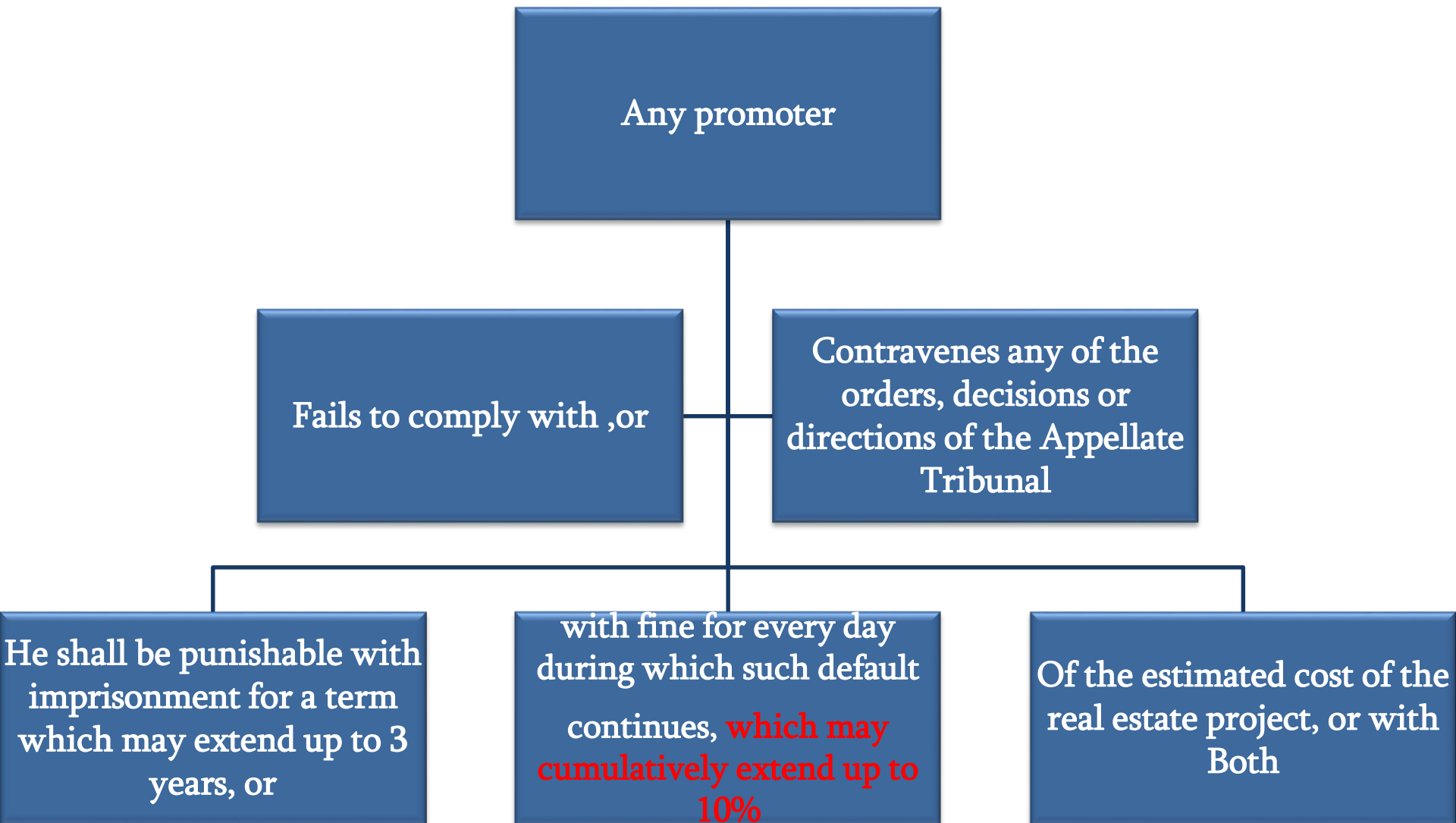
Which may cumulatively extend up to 5% of the cost of plot, apartment or buildings

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

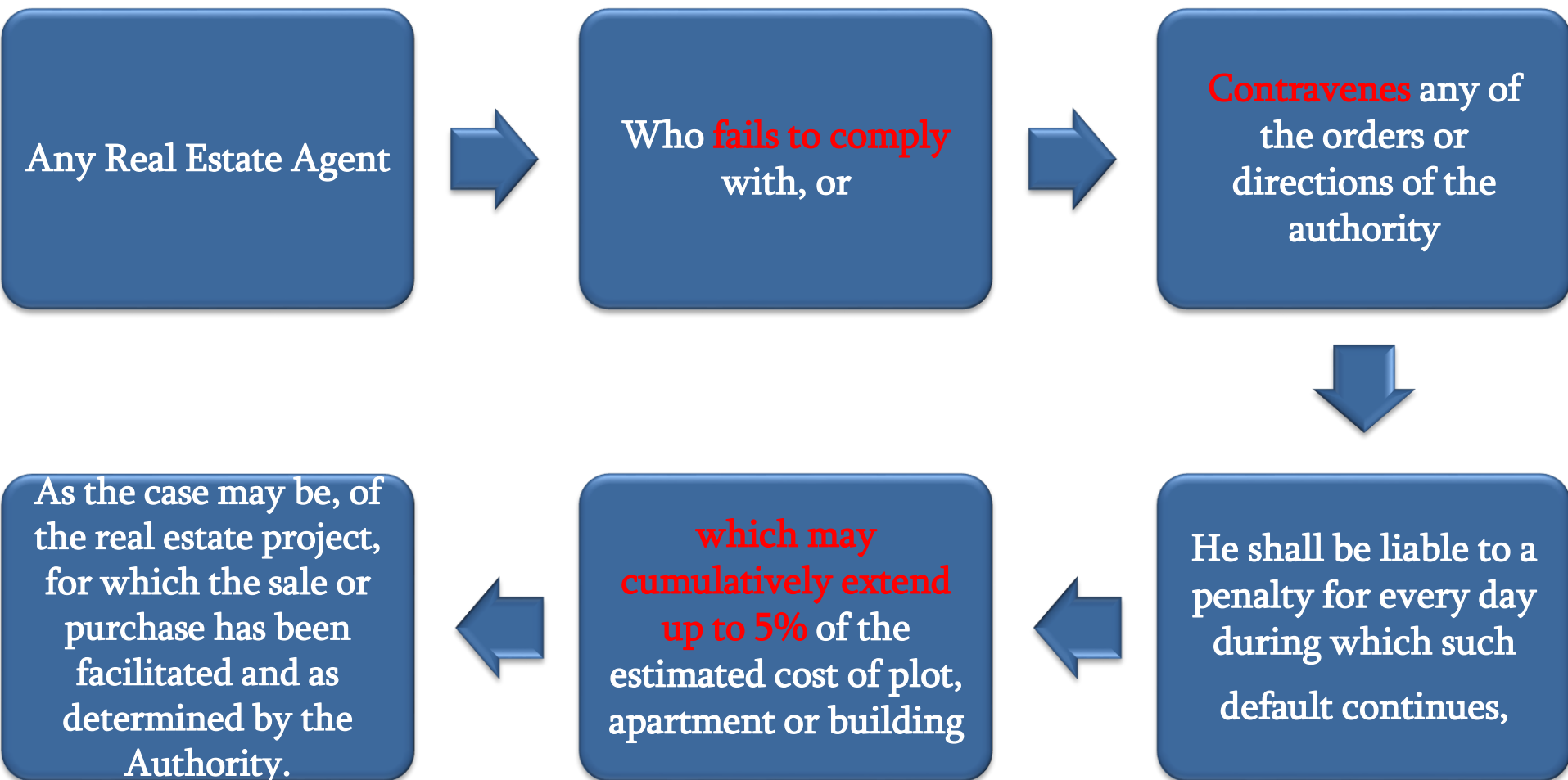
Penalty for failure to comply with orders of Authority by promoter (Sec.63)



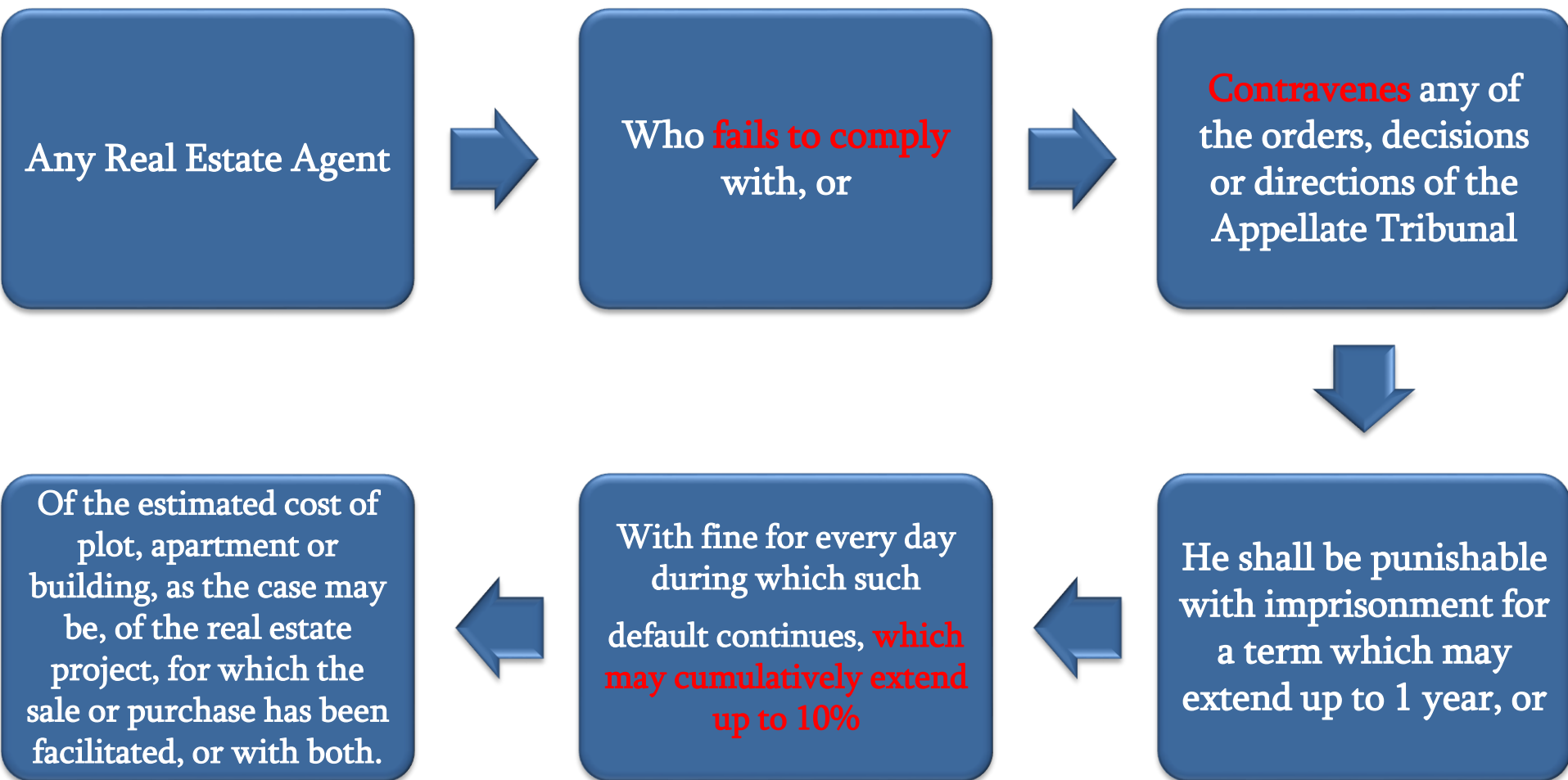
Penalty for failure to comply with orders of Appellate Tribunal by promoter (Sec.64)



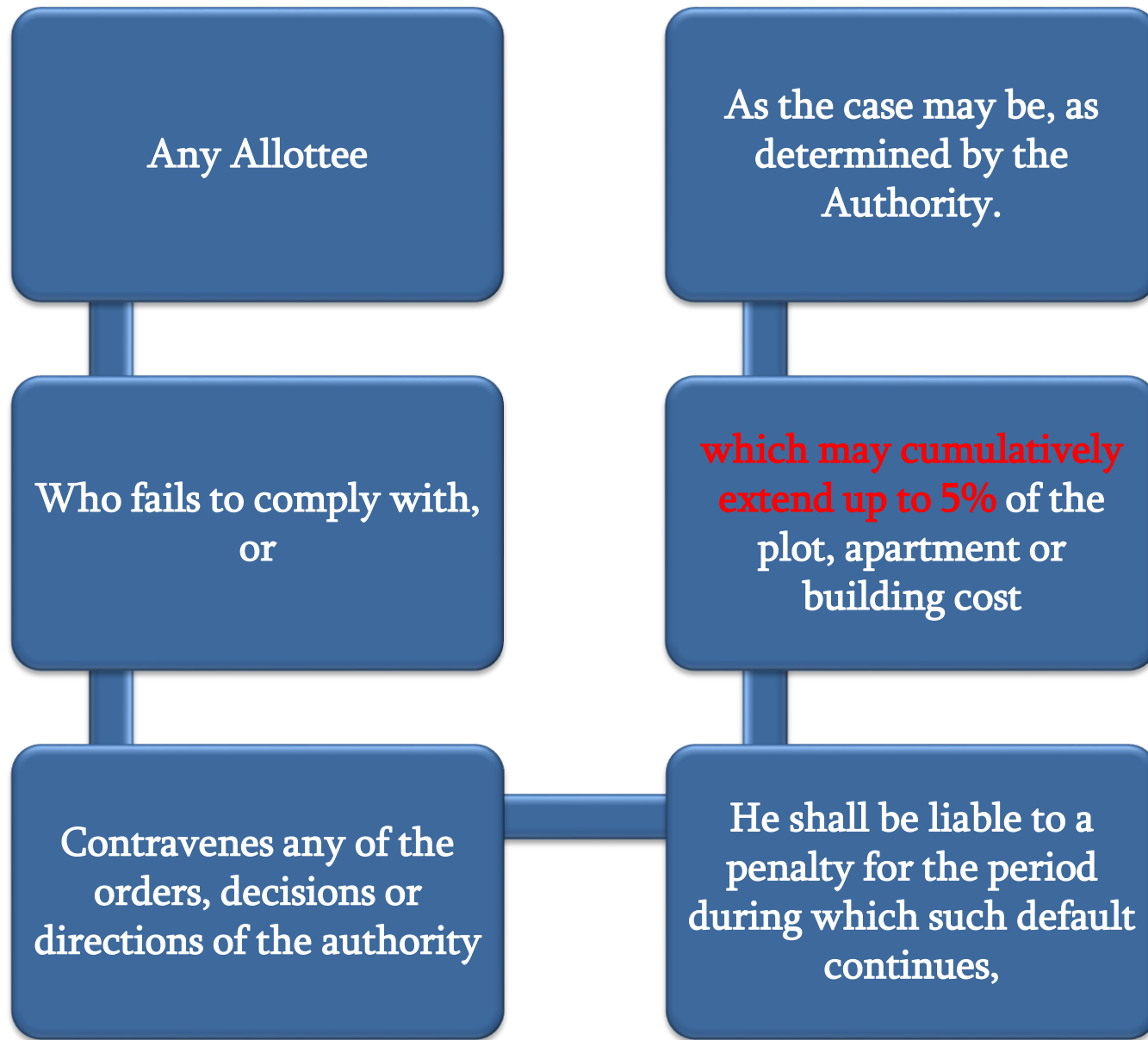
Penalty for failure to comply with orders of Authority by Real Estate Agent(Sec.65)



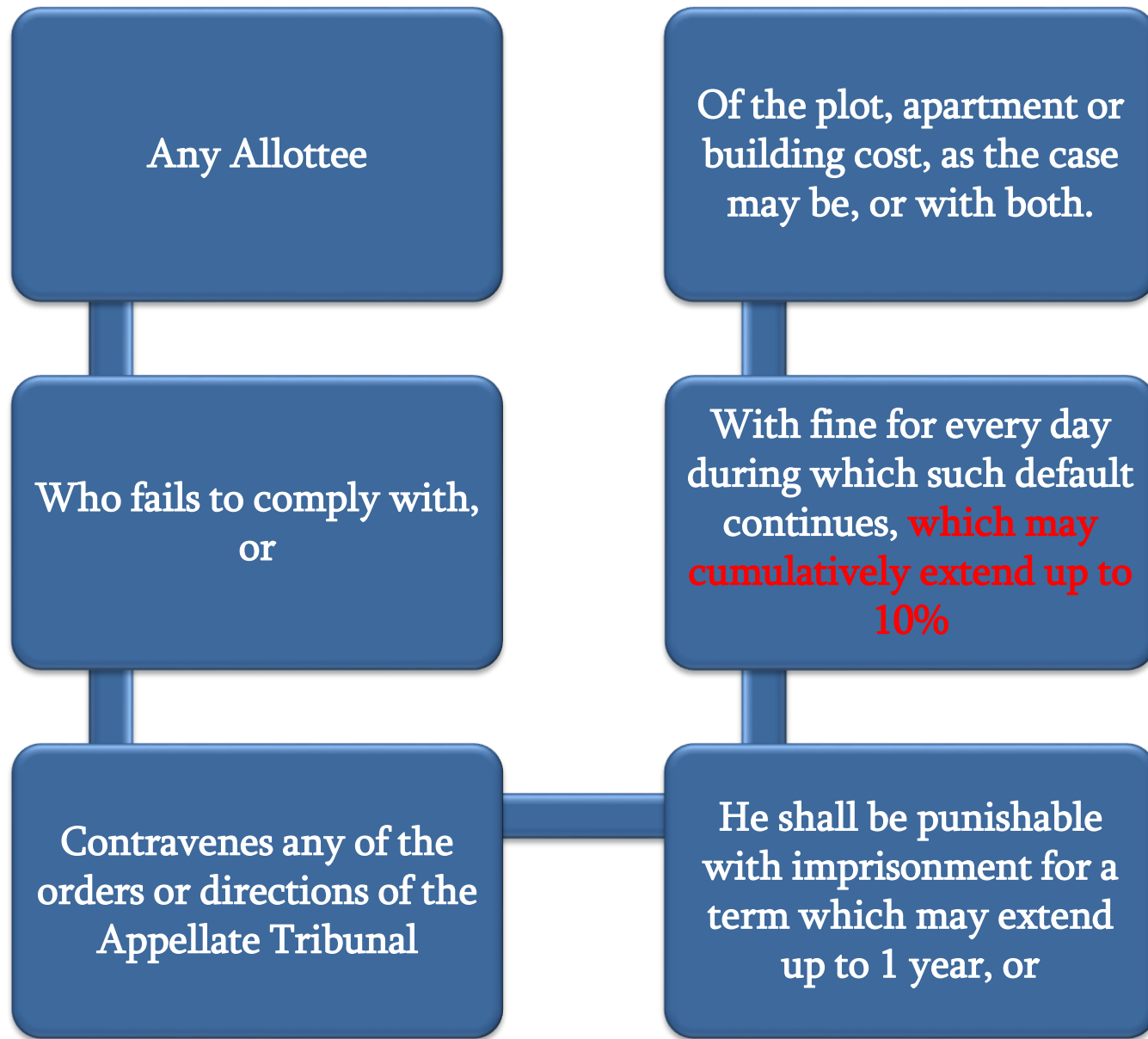
Penalty for failure to comply with orders of Appellate Tribunal by Real Estate Agent(Sec.66)



Penalty for failure to comply with orders of Authority by Allottee(Sec.67)



Penalty for failure to comply with orders of Appellate Tribunal by Allottee(Sec.68)



Chapters

- **Section 69 :- Offences of Companies**
- **Section 70 :- Compounding of Offences**
- **Section 71 :- Power to Adjudicate**
- **Section 72 :- Factors to be taken into account by the Adjudicating Officer**
- **Section 73 to 78 :- Finance, Accounts, Audit & Reports**
- **Section 79 to 92 :- Miscellaneous**

Uttar Pradesh Real Estate (Regulation & Development) Rules, 2016

RAMANAND GOYAL & COMPANY

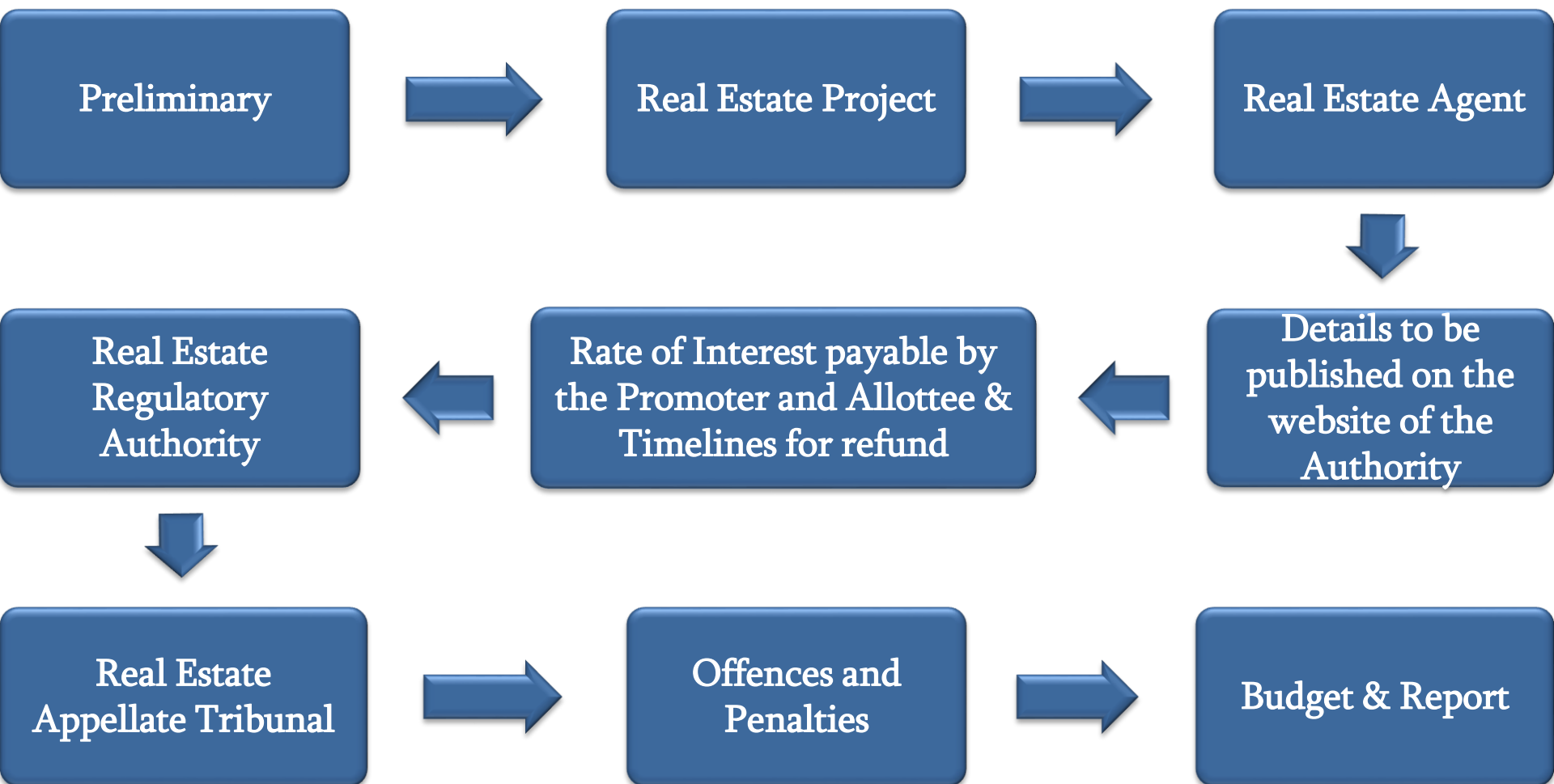
CHARTERED ACCOUNTANTS



Key Highlights and Important Provisions

Scheme of the Rules

- In exercise of the powers conferred by section 84 of the Real Estate (Regulation and Development) Act, 2016 (Central Act No. 16 of 2016), the State Government, has made the Uttar Pradesh Real Estate (Regulation and Development) Rules, 2017 :-



Forms

- Form A (see rule 3(2)) :- Application for Registration of Project
- Form B (see rule 3(4)) :- Declaration, Supported by an Affidavit, which shall be signed by the promoter or any person authorized by the promoter
- Form C (see rule 6(1)) :- Registration Certificate of Project
- Form D (see rule 6(2), 7(4), 8) :- Intimation of Rejection of Application for registration of Project/ Rejection of application for extension of registration of project/ Revocation of Registration of Project
- Form E (see rule 7(1)) :- Application for Extension of Registration of Project
- Form F (see rule 7(4)) :- Certificate for Extension of Registration of Project
- Form G (see rule 9(1)) :- Application for Registration of Real Estate Agent
- Form H (see rule 10(1)) :- Registration Certificate of Real Estate Agent
- Form I (see rule 10(2), 11(4), 12) :- Intimation of Rejection of Application for registration of Real Estate Agent/ Rejection of application for Renewal of Registration of Real Estate Agent / Revocation of Registration of Real Estate

Agent

Forms...

- Form J (see rule 11(1)) :- Application for Renewal of Registration of Real Estate Agent
- Form K (see rule 11(4)) :- Renewal of Registration of Real Estate Agent
- Form L (see rule 25(2)) :- Appeal to Appellate Tribunal u/s 44 of the Real Estate (Regulation & Development) Act, 2016
- Form M (see rule 33(1)) :- Complaint to the Real Estate Regulatory Authority u/s 31 of the Real Estate (Regulation & Development) Act, 2016
- Form N (see rule 34(1)) :- Application to Adjudicating Officer
- Form O (see rule 35) :- Annual Statement of Accounts
- Form P (see rule 36) :- Annual Report to be Prepared by the Regulatory Authority

Definitions (Rule 2)

➤ “Common Area” :-

- The entire land for the real estate project or where the project is developed in phases and registration under this act is sought for a phase, the entire land for that phase;
- The stair cases, lifts, staircase and lift lobbies, fire escapes and common entrances and exits of buildings;
- The common basements, terraces, parks, play ground, open parking areas and common storage spaces;
- 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 of community service personnel;
- Installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;
- The water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;
- All community and commercial facilities as provided in the real estate project;
- All other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use.

➤ Explanation :- Community and commercial Shall include only those facilities which have been provided as common areas in the real estate project.

Definitions (Rule 2)...

- “Layout Plan” :- means a plan of the project depicting the division or proposed division of land into plots, roads, open spaces, amenities, etc. and other details as may be necessary;
- “Project Land” :- means any parcel or parcels of land on which the project is developed and constructed by a promoter.

Information and documents to be furnished by the promoter for registration of project (Rule 3)

- The promoter shall furnish the following **additional information and documents** for registration of the real estate project with the Regulatory Authority namely:-
 - (a) authenticated copy of the PAN card of the promoter;
 - (b) audited balance sheet of the promoter for the preceding financial year and income tax returns of the promoter for 3 preceding financial years;
 - (c) the number of open parking areas available in the said real estate project;
 - (d) copy of the legal title deed reflecting the title of the promoter to the land on which development is proposed to be developed along with legally valid documents with authentication of such title, if such land is owned by another person;
 - (e) the details of encumbrances on the land on which development is proposed including any rights, title, interest or name of any party in or over such land along with details;
 - (f) where the promoter is not the owner of the land on which development is proposed details of the consent of the owner of the land along with a copy of the collaboration agreement, development agreement, joint development agreement or any other agreement, as the case may be, duly executed, entered into between the promoter and such owner and copies of title and other documents reflecting the title of such owner on the land proposed to be developed; and
 - (g) such other information and documents, as may be specified by the regulations.

Information and documents to be furnished by the promoter for registration of project(Rule 3)....

- The promoter shall pay a **registration fee** at the time of application for registration by way of a demand draft drawn on any nationalized or scheduled bank, for a sum calculated at the rate of, -

Residential or Any Other Projects

- Rs.10 per square meter for project where the area of land proposed to be developed does not exceeds 1000 square meters , and
- Rs. 500 for **every 100 square meter or part thereof** where the area of and proposed to be developed exceeds 1000 square meter.

Commercial Projects

- Rs.20 per square meter for project where the area of land proposed to be developed does not exceeds 1000 square meters , and
- Rs. 1000 for every **100 square meter or part thereof** where the area of and proposed to be developed exceeds 1000 square meter.

Information and documents to be furnished by the promoter for registration of project (Rule 3)....

- In case the promoter applies for withdrawal of application for registration of the project before the expiry of the period of 30 days provided u/s 5,
- Registration fee to the extent of **10% paid** under rule 3(3), or **Rs. 50,000 whichever is more**, shall be retained as processing fee by the Authority and
- The remaining amount shall be refunded to the promoter within 30 days from the date of such withdrawal.

Disclosure by promoters of ongoing projects (Rule 4)

- Upon the commencement of section 3(1), promoters of all ongoing projects which have not received completion certificate as required under local law shall within the period of 3 months from 1st May, 2017 i.e. the date of the commencement of the act, make an application to the Authority in rule 3.
- The promoter shall disclose all project details as required under the Act, rules and regulations made there under including the status of the project and the extent of completion.
- The promoter shall disclose the size of the apartment based on carpet area even if earlier sold on any other basis such as super area, super built up area, built up area etc. which shall not affect the validity of the agreement entered into between the promoter and the allottee to that extent.
- In case of plotted development the promoter shall disclose the area of the plot being sold to the allottees.

Exclusions-Disclosure by promoters of ongoing projects

- “Ongoing project” :- means a project where development is going on and for which completion certificate has not been issued but **excludes** such projects which fulfill any of the following criteria on the date of notification of these rules :-
- i. Where services have been handed over to the local authority for maintenance;
 - ii. Where common areas and facilities have been handed over to the Association or Residents' Welfare Association for maintenance;
 - iii. Where all development work have been completed and sale/lease deeds of 60% of the apartments/Houses/plots have been executed;
 - iv. Where all development works have been completed and application has been filed with the competent authority for issue of completion certificate.

Withdrawal of sums deposited in separate account(Rule 5)

- As per sub-clause (D) of clause (1) of sub-section (2) of section 4:-
 - i. 70% of amount realized from allottees to be deposited in separate bank account for each project and used only for the concerned project.
 - ii. The promoter 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.
- Project Bank Account shall be freezed in case of non-compliance of provision of the RERA.
- Withdrawal to be certified by an engineer, an architect and chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project.
- Projects accounts shall be audited and copies of those shall be submitted to the RERA.

Withdrawal of sums deposited in separate account (Rule 5)...

- (1) For the purposes of sub-clause (D) of clause (1) of sub-section (2) of section 4,
 - I. The land cost shall be the cost incurred by the promoter whether as an outright purchase, lease charges etc. and include the charges incurred to obtain the approval of the competent authority.
 - II. The construction cost = The total cost incurred by the promoter (towards the on-site expenditure for the physical development of the project)

Application for Registration by the Real Estate Agent(Rule 9)

- Every real estate agent required to register as per section 9(2) shall make an application in writing to the Regulatory Authority along with the following documents, namely:-
 - (a) brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies etc.);
 - (b) particulars of registration including the bye-laws, memorandum of association, articles of association etc. as the case may be;
 - (c) photograph of the real estate agent if it is an individual and the photograph of the partners, directors etc. in case of other entities;
 - (d) authenticated copy of the PAN card;
 - (e) income tax returns filed under the provisions of the Income Tax Act, 1961 for 3 financial years preceding the application or in case the applicant was exempted from filing returns under the provisions of the Income Tax Act, 1961 for any of the 3 year preceding the application, a declaration to such effect;
 - (e) authenticated copy of the address proof of the place of business; and
 - (f) such other information and documents, as may be specified by regulations.

Application for Registration by Real Estate Agent (Rule 9)....

- The real estate agent shall pay a **registration fee** at the time of application for registration by way of a demand draft drawn on any scheduled bank, For a sum of –

In case of the applicant being an Individual:-

Then a sum of Rs. 25000

In case of the applicant other than an Individual:-

Then a sum of Rs. 2,00,000

- Registration granted under Rule 10 shall be valid for a period of **10 years**.

Renewal of Registration of Real Estate Agent (Rule 11)

- The application for renewal of registration shall be accompanied with a demand draft drawn on any scheduled bank for a sum –

In case of the applicant being an Individual:-

Then a sum of Rs. 5000

In case of the applicant other than an Individual:-

Then a sum of Rs. 50,000

- Registration granted under this Rule shall be valid for a period of **5 years**.

Solid credentials needed to start any project

- Developers would be required to submit authenticated copy of PAN card, Annual Report comprising audited profit and loss account, balance sheet, cash flow statement and auditor's report. Not only this, if the promoter is not the owner of the plot they would have to give a copy of the legal title deed and copy of collaboration agreement and Joint Development Agreement. They would also have to give information regarding the number of open and closed parking areas in the project.

Complete information on the Developer / Promoter

- Complete details of developer / promoter has to be made available on the Authority's website. The information would include company profile, track record, details of any legal cases, Project Details, Registered Agent Details, Consultants, Development Plan, financial details of the promoters, status of approvals and projects among other things.

Quarterly Online Disclosures (Updation) For Developer

- The promoter shall upload the following updates on the webpage for the project, **within 7 days** from the expiry of each quarter:
 - (i) list of number and types of apartments or plots, as the case may be, booked;
 - (ii) list of number of garages/covered parking booked;
 - (iii) status of the project:
 - (a) status of construction of each building with photographs;
 - (b) status of construction of each floor with photographs ; and
 - (c) status of construction of internal infrastructure and common areas with photographs.
 - (iv) Status of approvals:
 - (a) approval received;
 - (b) approvals applied and expected date of receipt;
 - (c) approvals to be applied and date planned for application; and
 - (d) modifications, amendment or revisions, if any, issued by the competent authority with regard to any license, permit or approval for the project.

Quarterly Online Disclosures (Updation) For Agent

- The Authority shall ensure that the following information shall be made available on its website in respect of each real estate agent registered with it or whose application for registration has been rejected or revoked:
 - A. For real estate agents registered with the Authority:
 - (i) registration number and the period of validity of the registration of the real estate agent with the regulatory authority;
 - (ii) brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies etc.);
 - (iii) particulars of registration including the bye-laws, memorandum of association, articles of association etc. as the case may be;
 - (iv) photograph of the real estate agent if he is an individual and the photograph of the partners, directors etc. in case of other persons ;
 - (v) authenticated copy of the PAN card;
 - (vi) income tax returns filed under the provisions of the Income Tax Act, 1961 for 3 financial years preceding the application or in case the applicant was exempted from filing returns under the provisions of the Income Tax Act, 1961 for any of the 3 year preceding the application, a declaration to such effect; and
 - (vi) authenticated copy of the address proof of the place of business and the contact address, contact numbers and email-ids of the real estate agent and other officials responsible.

Quarterly Online Disclosures (Updation) For Agent

- B. In case of applicants whose application for registration as a real estate agent have been rejected or real estate agents whose registration has been revoked by the Authority:**
- (i) registration number and the period of validity of the registration of the real estate agent with the Regulatory Authority;**
 - (ii) brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies etc.); and**
 - (iii) photograph of the real estate agent if he is an individual and photograph of the partners, directors etc. in case of other persons.**
- C. Such other documents or information as may be specified by the Act or the rules and regulation made there under.**

Allottees Approval- Requirements

- **2/3rd of the allottees (by number) shall consent to the changes.**
- **Obtain prior consent of allottees for making any addition, alteration to the approved and sanctioned plans.**
- **Even for any structural designs, specifications, amenities, building specifications, common areas.**
- **Transfer of promoters rights and liabilities to a third party.**

Terms and conditions and the fine payable for compounding of offence (Rule 32)

- The court may compound any offence specified under section 70 on payment of amount as specified in the table given below :-

S.NO.	Offence	Amount to be paid for compounding the offence
1	Imprisonment under sub-section (2) of section 59 (Promoter)	The money to be paid for compounding shall be proportionate to the term of imprisonment subject to maximum of 10% of the estimated cost of the real estate project for 3 years
2	Imprisonment under section 64 (Promoter)	
3	Imprisonment under section 66 (Real Estate Agent)	The money to be paid for compounding shall be proportionate to the term of imprisonment sub. to maximum of 10% of the estimated cost for 1 year of the plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated
4	Imprisonment under section 68 (Allottee)	The money to be paid for compounding shall be proportionate to the term of imprisonment sub. to maximum of 10% of the estimated cost for 1 year of the plot, apartment or building, as the case may be.

Some Important Rules

- Rule 6 :- Grant or rejection of registration of the project
- Rule 7 :- Extension of registration of the project
- Rule 8 :- Revocation of registration of the project
- Rule 10 :- Grant of registration to the Real Estate Agent
- Rule 12 :- Revocation of registration of the Real Estate Agent
- Rule 13 :- Other functions of a real estate agent
- Rule 14 :- Details to be published on the website of the Authority
- Rule 15 :- Rate of Interest payable by the promoter and allottee
- Rule 16 :- Timelines for Refund
- Rule 17 to Rule 24 :- Real Estate Regulatory Authority
- Rule 25 to Rule 31 :- Real Estate Appellate Tribunal
- Rule 33 to Rule 34 :- Filing of complaint with the Authority and the Adjudicating Officer
- Rule 35 to Rule 36 :- Budget and Report

RERA Address

➤ Address :-

U.P. Awas Evam Vikas Parishad,
104, Mahatma Gandhi Road, Lucknow,
Uttar Pradesh

PIN :- 226001

Toll Free No.:- 1800 180 5333 & 0522-2236803



An Effort By:
CA Himanshu Goyal
CA Praneti Agarwal
CA Kirti Fatehpuria
+919602796993
mail@rngca.com
www.rngca.com

RAMANAND GOYAL & COMPANY

CHARTERED ACCOUNTANTS

RNGC