

## FAQs on Real Estate (Regulations and Development) Act, 2016 - Allottee



This is in continuation to our Primer on Real Estate (Regulation and Development) Act, 2016 (**Act**). In our earlier primer, we have covered certain key points related to (i) the duties and responsibilities of a 'promoter' under the Act, and (ii) registration of real estate project. Please click [here](#) to read our earlier primer.

In this primer, we have covered common queries related to the rights of 'allottee' of the real estate project enshrined under the Act.

### 1. **Who is an allottee for the purposes of the Act?**

The term allottee' includes a person to whom a plot/ apartment/ building has been allotted, sold (whether as freehold or leasehold), or otherwise transferred by the promoter, and who subsequently acquires the said allotment through sale, transfer, or otherwise.

### 2. **Does the term allottee include a person who acquires any plot/ apartment/ building through a secondary sale?**

Yes. Any person acquiring any plot/ apartment/ building through a secondary sale will be considered as an allottee.

### 3. **Does the term allottee include a person to whom the plot/ apartment/ building is given on rent?**

The term allottee does not include a person to whom such plot/ apartment/ building is given on rent.

### 4. **Whether lessee is covered within the ambit of the term allottee?**

Yes. It has been clarified by the Real Estate Regulatory Authority (**Authority**) in various cases, that the definition of the term allottee is inclusive in nature and includes the long-term lease. However, the premises given on a leave and license basis or on a short-term lease not exceeding 5 years are not covered under the Act.

### 5. **How much advance can be collected from an allottee by the promoters towards booking of plot/ apartment/ building?**

As per the Act, the promoters cannot accept more than 10% of the price of the apartment/ plot/ building as an advance payment or application fee from an allottee. For any further collection towards the apartment/ plot/ building cost, the promoters are required to enter into an 'Agreement for Sale' with a person to whom the apartment/ plot/ building is allotted.

**6. Where can an allottee verify the details of the real estate project?**

The allottee can verify all the details from the webpage of the Authority, as uploaded by the promoters of the respective real estate project.

**7. What is a real estate project?**

The term 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 apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or buildings and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights, and appurtenances belonging thereto.





**8. What is the obligation of the promoters towards returning the monies collected from an allottee?**

The Act provides for the provisions regarding various situations in which the allottee would be compensated by the promoters due to delay in completion of the real estate project, etc. Following are the situations:

- (a) If the promoter fails to complete or is unable to give possession of an apartment/ plot/ building as per the date committed.
- (b) in case of any loss caused to him due to defective title of the land, on which the real estate project is being developed or has been developed; or
- (c) If the promoter 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.

**9. What are the rights of an allottee under the Act?**

Some of the rights of an allottee under the Act are as follows:

- (a) Right to information.
- (b) Right to receive Completion Certificate/ Occupancy certificate.
- (c) Right to remedy of approaching the Authority against wrongful cancellation of allotment by the promoters (builders and developers).

- (d) Right to claim compensation or interest from promoters for breaches of agreement of sale.
- (e) Right to withdraw from the real estate project and claim return of investment with interest and compensation in case of the false advertisement or non-fulfilment of any conditions mentioned in their agreement with the promoters.
- (f) Right to claim compensation from the promoters in case of loss caused to allottees due to defective title.
- (g) Right to receive the title of insurance to be transferred in the name of allottees or association or society of allottees; and
- (h) Right to possession.

10. **Whether interest paid by the promoters to the allottee is automatic or whether the allottee is required to approach the Authority?**

The interest payment is in accordance with the model form of agreement for sale. Therefore, the provision of automatic payment should be included in the agreement for sale. The allottee may have to file a complaint to the Authority if there is any grievance.



11. **How can a complaint be filed by an allottee with the Authority for any violations under the Act?**

The Act lays down the detailed procedure for filing a complaint by an aggrieved allottee with the Authority. An aggrieved allottee can file an application online as per the prescribed format by the Authority. It should include the following key details:

- (a) Registration number of the real estate project to which the complaint pertains;
- (b) Particulars of the complainant and respondent;
- (c) Facts of the case;
- (d) Relief sought; and
- (e) List of supporting documents as enclosures.

12. **Who has the authority to decide the complaints filed by the allottee(s)?**

For adjudication of proceedings with respect to the complaints filed by an allottee, Authority constituted in the respective states shall have the power to adjudicate the issue. Such state Authority may by order, direct that specific matters or issues be heard and decided by a single bench of either the Chairperson or any member of such state Authority.

13. **What is the timeline within which the Authority is required to dispose of any matter that is brought to it for consideration?**

The Act stipulates that the Authority should endeavor to dispose of the questions/ complaints as expeditiously as possible but not later than 60 days from the date of filing of the complaint. However, if it cannot be disposed of during the said period the Authority is required to record its reasons in writing for the same.



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