

## **59. Punishment for non-registration under section 3:**

(1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority.

(2) If 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 three years or with fine which may extend up to a further ten per cent. of the estimated cost of the real estate project, or with both.

### **59(1): Punishment for Non-Registration of Project**

If a promoter violates section 3 by not registering a real estate project, the Authority may impose a penalty of up to 10% of the estimated project cost. [Section 59(1), *Real Estate (Regulation and Development) Act, 2016*]

### **59(2): Punishment for Continued Violation of Registration Requirement**

If a promoter disobeys the Authority's orders under sub-section (1) or keeps violating section 3, he may face imprisonment up to three years, or a fine up to an additional 10% of the estimated project cost, or both. [Section 59(2), *Real Estate (Regulation and Development) Act, 2016*]

### **Rule 35: Terms and conditions and the fine payable for compounding of offence**

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**(1) Amount for compounding offences:** The Court may allow compounding of offences punishable with imprisonment under the Act on payment of amounts as below—

- Section 59(2): 10% of the estimated cost of the real estate project
- Section 64: 10% of the estimated cost of the real estate project
- Section 66: 10% of the estimated cost of the plot, apartment, or building involved in the sale or purchase
- Section 68: 10% of the estimated cost of the plot, apartment, or building concerned

**(2) Compliance with orders:** The promoter, allottee, or real estate agent (as applicable) must comply with the orders of the Authority or Appellate Tribunal within a time period fixed by the Court, not exceeding 30 days from the date of compounding.

**(3) Release from custody:** On payment of the compounding sum and compliance with orders, any person in custody for the offence will be released, and no further proceedings will continue for that offence.

**(4) Effect of compounding:** Acceptance of compounding money by the Court is treated as an acquittal under section 300 of the Code of Criminal Procedure, 1973.

[Rule 35, Real Estate (Regulation and Development) Rules]

## **60. Penalty for contravention of section 4:**

**If any promoter provides false information or contravenes the provisions of section 4, he shall be liable to a penalty**

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**which may extend up to five per cent. of the estimated cost of the real estate project, as determined by the Authority.**

#### **60: Penalty for Contravention of Section 4**

If a promoter gives false information or breaches the requirements of section 4, the Authority may impose a penalty up to 5% of the estimated project cost. [*Section 60, Real Estate (Regulation and Development) Act, 2016*]

#### **61. Penalty for contravention of other provisions of this Act:**

**If any promoter contravenes any other provisions of this Act, other than that provided under section 3 or section 4, or the rules or regulations made thereunder, he shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project as determined by the Authority.**

#### **61: Penalty for Contravention of Other Provisions**

If a promoter violates any provision of this Act (other than sections 3 and 4) or breaches rules or regulations made under it, the Authority may impose a penalty up to 5% of the estimated project cost. [*Section 61, Real Estate (Regulation and Development) Act, 2016*]

#### **62. Penalty for non-registration and contravention under sections 9 and 10:**

**If any real estate agent fails to comply with or contravenes the provisions of section 9 or section 10, he shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extend up to**

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**five per cent. of the 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 as determined by the Authority.**

## **62: Penalty for Non-Registration or Contravention by Real Estate Agents**

If a real estate agent violates section 9 or section 10, he must pay a penalty of ₹10,000 per day of default, which can accumulate up to 5% of the cost of the plot, apartment, or building involved in the transaction, as determined by the Authority. [*Section 62, Real Estate (Regulation and Development) Act, 2016*]

## **63. Penalty for failure to comply with orders of Authority by promoter:**

**If any promoter, 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.**

## **63: Penalty for Promoter's Non-Compliance with Authority's Orders**

If a promoter disobeys or contravenes any order or direction of the Authority, he must pay a daily penalty for the period of default, which can cumulatively reach up to 5% of the estimated project cost, as determined by the Authority. [*Section 63, Real Estate (Regulation and Development) Act, 2016*]

## **64. Penalty for failure to comply with orders of Appellate Tribunal by promoter:**

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**If any promoter, 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 per cent. of the estimated cost of the real estate project, or with both.**

#### **64: Penalty for Promoter's Non-Compliance with Appellate Tribunal Orders**

If a promoter fails to comply with or violates any order, decision, or direction of the Appellate Tribunal, he may be punished with imprisonment up to three years, or a daily fine for the period of default, which can cumulatively extend up to 10% of the estimated project cost, or both. [Section 64, *Real Estate (Regulation and Development) Act, 2016*]

#### **65. Penalty for failure to comply with orders of Authority 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 or building, 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.**

#### **65: Penalty for Real Estate Agent's Non-Compliance with Authority's Orders**

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If a real estate agent disobeys or contravenes any order or direction of the Authority, he must pay a daily penalty for the period of default, which can cumulatively extend up to 5% of the cost of the plot, apartment, or building involved in the transaction, as determined by the Authority. [Section 65, *Real Estate (Regulation and Development) Act, 2016*]

## **66. 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 per cent. 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.**

## **66: Penalty for Real Estate Agent's Non-Compliance with Appellate Tribunal Orders**

If a real estate agent fails to comply with or violates any order, decision, or direction of the Appellate Tribunal, he may face imprisonment up to one year, or a daily fine for the period of default that can cumulatively reach up to 10% of the cost of the plot, apartment, or building involved in the transaction, or both. [Section 66, *Real Estate (Regulation and Development) Act, 2016*]

## **67. Penalty for failure to comply with orders of Authority by allottee:**

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**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 per cent. of the plot, apartment or building cost, as the case may be, as determined by the Authority.**

### **67: Penalty for Allottee's Non-Compliance with Authority's Orders**

If an allottee disobeys or contravenes any order, decision, or direction of the Authority, he must pay a penalty for the duration of default, which can cumulatively extend up to 5% of the cost of the plot, apartment, or building, as determined by the Authority.  
[Section 67, *Real Estate (Regulation and Development) Act, 2016*]

### **68. 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 or with fine for every day during which such default continues, which may cumulatively extend up to ten per cent. of the plot, apartment or building cost, as the case may be, or with both.**

### **68: Penalty for Allottee's Non-Compliance with Appellate Tribunal Orders**

If an allottee fails to comply with or contravenes any order or direction of the Appellate Tribunal, he may face imprisonment up to one year, or a daily fine for the duration of default that can cumulatively extend up to 10% of the cost of the plot, apartment,

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or building, or both. [Section 68, *Real Estate (Regulation and Development) Act, 2016*]

## **69. Offences by companies:**

**(1) Where an 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 neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer 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 anybody corporate and includes a firm, or other association of individuals; and**



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**(b) "director" in relation to a firm, means a partner in the firm.**

### **69(1): Offences by Companies — Liability of Persons in Charge**

If a company commits an offence under this Act, both the company itself and every person in charge of or responsible for its business at the time of the offence shall be deemed guilty and punished accordingly. However, such a person will not be held liable if he can prove that the offence was committed without his knowledge or that he exercised all due diligence to prevent it.  
[Section 69(1), *Real Estate (Regulation and Development) Act, 2016*]

### **69(2): Offences by Companies — Liability of Directors and Officers**

If a company commits an offence under this Act with the consent, connivance, or neglect of any director, manager, secretary, or other officer, that person shall also be deemed guilty and punished accordingly.

*Explanation:*

- Company includes any body corporate, firm, or association of individuals.
- Director, in relation to a firm, means a partner.

[Section 69(2), *Real Estate (Regulation and Development) Act, 2016*]

## **70. Compounding of offences:**

**Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), if any person is punished with imprisonment under this Act, the punishment may, either**

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**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:**

## **70: Compounding of Offences**

If a person is punishable with imprisonment under this Act, the court may allow the offence to be compounded (settled) either before or after prosecution, on terms and conditions and on payment of a prescribed sum. However, this sum cannot exceed the maximum fine allowed for that offence. [*Section 70, Real Estate (Regulation and Development) Act, 2016*]

## **71. Power to adjudicate:**

**(1) For the purpose of adjudging compensation under sections 12, 14, 18 and section 19, the Authority shall appoint in consultation with the appropriate Government one or more judicial officer as deemed necessary, who is or has been a District Judge to be an adjudicating officer for holding an inquiry in the prescribed manner, after giving any person concerned a reasonable opportunity of being heard:**

**Provided that any person whose complaint in respect of matters covered under sections 12, 14, 18 and section 19 is pending before the Consumer Disputes Redressal Forum or the Consumer Disputes Redressal Commission or the National Consumer Redressal Commission, established under section 9 of the Consumer Protection Act, 1986 (68 of 1986), on or before the commencement of this Act, he may, with the permission of such Forum or Commission, as the**

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**case may be, withdraw the complaint pending before it and file an application before the adjudicating officer under this Act.**

**(2) The application for adjudging compensation under subsection (1), shall be dealt with by the adjudicating 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 adjudicating officer shall record his reasons in writing for not disposing of the application within that period.**

**(3) While holding an inquiry the adjudicating 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 adjudicating 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 subsection (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.**

### **71(1): Power to Adjudicate Compensation**

To decide claims for compensation under sections 12, 14, 18, and 19, the Authority shall, in consultation with the appropriate Government, appoint one or more judicial officers (who are or have been District Judges) as adjudicating officers. They will

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conduct inquiries in the prescribed manner after giving parties a fair hearing.

*Proviso:* If a person already has a complaint on these matters pending before any Consumer Forum, State Commission, or National Commission under the Consumer Protection Act, 1986, he may, with that body's permission, withdraw the complaint and file it before the adjudicating officer under this Act.

[Section 71(1), *Real Estate (Regulation and Development) Act, 2016*]

### **71(2): Time Limit for Adjudication of Compensation**

Applications for compensation under sub-section (1) must be decided by the adjudicating officer within 60 days of receiving the application. If the case cannot be disposed of within this period, the officer must record the reasons in writing for the delay. [Section 71(2), *Real Estate (Regulation and Development) Act, 2016*]

### **71(3): Powers of Adjudicating Officer During Inquiry**

While conducting an inquiry, the adjudicating officer may summon witnesses or require the production of documents relevant to the case. If satisfied that a person has violated sections 12, 14, 18, or 19, the officer may order the payment of compensation or interest as deemed appropriate under those provisions. [Section 71(3), *Real Estate (Regulation and Development) Act, 2016*]

## **21. Adjudication Proceedings before the Authority**

For complaints filed under Section 31 of the Act read with Rule 36 of the Bihar Real Estate (Regulation and Development) Rules, 2017, and for suo motu cases under Section 3 of the Act, the

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Chairperson may, by general or specific order, direct that particular matters or issues be heard and decided either by:

- a Single Bench consisting of the Chairperson or a Member, or
- a Double Bench consisting of the Chairperson and any Member, or two Members of the Authority.

*[Regulation 21, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

### **Interpretations:**

**Experion Developers Pvt. Ltd. v. State of Haryana & Ors. (2020) — RERA's Powers and Jurisdiction Clarified:** The Punjab & Haryana High Court upheld the validity of provisions under the Haryana Real Estate Regulation Authority (HRERA), particularly Section 24 of the RERA Act, 2016, and related rules on delegation of powers. It held that HRERA possesses wide regulatory and supervisory powers to oversee projects and ensure compliance, while the adjudication of compensation is confined to the Adjudicating Officer. The Court dismissed the developers' challenge and affirmed the statutory scheme distinguishing between regulatory oversight and adjudicatory functions. *[Experion Developers Pvt. Ltd. v. State of Haryana, TNC 2020 (10) 14, PH HC: 16-Oct-2020, CP: REA 71]*

### **72. Factors to be taken into account by the adjudicating officer:**

**While adjudging the quantum of compensation or interest, as the case may be, under section 71, the adjudicating officer shall have due regard to the following factors, namely:--**

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- (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;**
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.**

## **72: Factors for Determining Compensation or Interest**

When deciding the amount of compensation or interest under section 71, the adjudicating officer must consider:

- (a) the disproportionate gain or unfair advantage obtained from the default (if it can be measured);
- (b) the loss caused by the default;
- (c) whether the default is repetitive in nature; and
- (d) any other factors the officer deems necessary in the interests of justice.

*[Section 72, Real Estate (Regulation and Development) Act, 2016]*

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