

20. Establishment and incorporation of Real Estate Regulatory Authority:

(1) The appropriate 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 the appropriate Government of two or more States or Union territories may, if it deems fit, establish one single Authority:

Provided further that, the appropriate Government may, if it deems fit, establish more than one Authority in a State or Union territory, as the case may be:

Provided also that until the establishment of a Regulatory Authority under this section, the appropriate Government shall, by order, designate any Regulatory Authority or any officer preferably the Secretary of the department dealing with Housing, as the Regulatory 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,

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with the power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

### **20(1): Establishment of Real Estate Regulatory Authority**

The appropriate Government must, within one year from the commencement of this Act, establish by notification a Real Estate Regulatory Authority to exercise the powers and perform the functions under the Act.

- Two or more States/Union territories may establish a single Authority jointly.
- A State/Union territory may establish more than one Authority.
- Until such Authority is established, the Government must designate an existing Regulatory Authority or an officer (preferably the Housing Department Secretary) to act as the Regulatory Authority.
- Once the Authority is established, all pending applications, complaints, or cases with the designated authority will be transferred to the new Authority and continue from the stage at which they were transferred.

*[Section 20(1), Real Estate (Regulation and Development) Act, 2016]*

### **20(2): Legal status of the Authority**

The Authority is a body corporate with perpetual succession and a common seal, having the power—subject to this Act—to acquire, hold, and dispose of both movable and immovable

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property, to enter into contracts, and to sue or be sued in its own name. [Section 20(2), *Real Estate (Regulation and Development) Act, 2016*]

Reg 16. Authority's Office, Office Hours and Sitzings

(1) Head Office: The head office of the Authority shall be located at Patna. The Authority may, by order, establish benches and offices at other places in the State.

(2) Other Benches and Offices: The Authority may establish additional benches and offices in the State through separate orders as needed.

(3) Proceedings: The Authority may conduct its proceedings either at the head office or at any other place within its jurisdiction, on such days and times as directed by the Chairperson.

[*Regulation 16, Bihar Real Estate Regulatory Authority (General) Regulations, 2024*]

Reg 17. Language of the Authority

(1) Language of Proceedings: The proceedings of the Authority shall be conducted in English or Hindi.

(2) Acceptance of Complaints: The Authority may, at its discretion, accept complaint petitions made in English or Hindi.

(3) Translation Directions: The Authority may, in appropriate cases, direct translation of petitions and accompanying documents into English or Hindi.

[*Regulation 17, Bihar Real Estate Regulatory Authority (General) Regulations, 2024*]

Reg 18. Seal of the Authority

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Any document requiring authentication by the Authority shall be issued under the official seal of the Authority and signed by the Secretary, Officer on Special Duty, or any other officer duly authorized by the Authority for this purpose.

*[Regulation 18, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

## **21. Composition of Authority:**

**The Authority shall consist of a Chairperson and not less than two whole time Members to be appointed by the appropriate Government.**

### **21: Composition of the Authority**

The Authority shall have a Chairperson and at least two whole-time Members, appointed by the appropriate Government.  
*[Section 21, Real Estate (Regulation and Development) Act, 2016]*

## **22. Qualifications of Chairperson and Members of Authority:**

**The Chairperson and other Members of the Authority shall be appointed by the appropriate Government on the recommendations of a Selection Committee consisting of the Chief Justice of the High Court or his nominee, the Secretary of the Department dealing with Housing and the Law Secretary, in such manner as may be prescribed, from amongst persons having adequate knowledge of and professional experience of at-least twenty years in case of the Chairperson and fifteen years in the case of the Members in urban development, housing, real estate development, infrastructure, economics, technical experts from relevant**

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**fields, planning, law, commerce, accountancy, industry, management, social service, public affairs or administration:**

**Provided that a person who is, or has been, in the service of the State Government shall not be appointed as a Chairperson unless such person has held the post of Additional Secretary to the Central Government or any equivalent post in the Central Government or State Government:**

**Provided further that a person who is, or has been, in the service of the State Government shall not be appointed as a member unless such person has held the post of Secretary to the State Government or any equivalent post in the State Government or Central Government.**

## **22: Qualifications of Chairperson and Members of the Authority**

The Chairperson and Members are appointed by the appropriate Government on the recommendation of a Selection Committee consisting of:

- the Chief Justice of the High Court or their nominee,
- the Secretary of the Department dealing with Housing, and
- the Law Secretary.

They must be selected from among persons with:

- at least 20 years' professional experience (for the Chairperson) or 15 years' professional experience (for Members) in urban development, housing, real estate development, infrastructure, economics, relevant technical fields, planning, law, commerce, accountancy, industry,

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management, social service, public affairs, or administration.

**Additional conditions:**

- A person from State Government service can be appointed Chairperson only if they have held the post of Additional Secretary to the Central Government or an equivalent post in the Central/State Government.
- A person from State Government service can be appointed as a Member only if they have held the post of Secretary to the State Government or an equivalent post in the State/Central Government.

*[Section 22, Real Estate (Regulation and Development) Act, 2016]*

**Rule 19: Selection of Chairperson and Other Members of Authority**

**(1) Reference of Vacancies:** When vacancies for Chairperson or Members arise, exist, or are likely to arise, the State Government must make a reference to the Selection Committee.

**(2) Procedure by Selection Committee:** The Selection Committee may adopt any procedure it considers appropriate, including appointing a Search Committee to prepare a panel of names for consideration.

**(3) Recommendation of Candidates:** The Selection Committee shall recommend two persons for each vacancy to the State Government.

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**(4) Timeline for Recommendations:** The Selection Committee must submit its recommendations within 60 days of the reference made by the State Government.

**(5) Appointment by State Government:** The State Government must appoint one of the two recommended persons within 30 days of receiving the Selection Committee's recommendations.

[Rule 19, Real Estate (Regulation and Development) Rules 2017]

## **23. Term of office of Chairperson and Members:**

**(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 appropriate Government 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.**

### **23(1): Term of office of Chairperson and Members**

The Chairperson and Members shall hold office for up to five years from the date they assume office, or until they reach the age of sixty-five years, whichever occurs earlier. They are not eligible for re-appointment. [Section 23(1), Real Estate (Regulation and Development) Act, 2016]

### **23(2): Condition before appointment**

Before appointing a person as Chairperson or Member, the appropriate Government must ensure that the person has no

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financial or other interests likely to prejudice their functions in that role. [Section 23(2), *Real Estate (Regulation and Development) Act, 2016*]

## **24. Salary and allowances payable to Chairperson and Members:**

**(1) 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 and shall not be varied to their disadvantage during their tenure.**

**(2) Notwithstanding anything contained in sub-sections (1) and (2) of section 23, the Chairperson or a Member, as the case may be, may,--**

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

**(b) be removed from his office in accordance with the provisions of section 26 of this Act.**

**(3) 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.**

### **24(1): Salary, allowances, and service conditions**

The salary, allowances, and other service conditions of the Chairperson and Members shall be as prescribed and cannot be altered to their disadvantage during their tenure. [Section 24(1), *Real Estate (Regulation and Development) Act, 2016*]

### **24(2): Relinquishment or removal from office**



Despite Section 23(1) and 23(2), the Chairperson or a Member may—

- (a) resign from office by giving at least three months’ written notice to the appropriate Government; or
- (b) be removed from office as per the procedure in Section 26 of the Act.

*[Section 24(2), Real Estate (Regulation and Development) Act, 2016]*

### **24(3): Filling of vacancy**

Any vacancy in the office of the Chairperson or any other Member must be filled within three months from the date the vacancy arises. *[Section 24(3), Real Estate (Regulation and Development) Act, 2016]*

### **Rule 20: Salary, allowances, and service conditions of Chairperson and Members**

Under the Bihar RERA Rules, 2017:

- **Chairperson:** Entitled to a consolidated monthly salary of ₹2,50,000, without housing or vehicle allowances.
- **Member:** Entitled to a consolidated monthly salary of ₹2,00,000, without housing or vehicle allowances.
- **Leave:** Both receive 30 days of earned leave for each completed year of service.
- The State Government may determine any additional allowances or terms from time to time.

*[Rule 20, Bihar Real Estate (Regulation and Development) Rules, 2017]*

## **25. Administrative powers of Chairperson:**

**The Chairperson 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.**

### **25: Administrative powers of Chairperson**

The Chairperson has the powers of general superintendence and direction over the Authority's affairs. In addition to presiding over Authority meetings, the Chairperson shall exercise and perform such administrative powers and functions of the Authority as may be prescribed. [*Section 25, Real Estate (Regulation and Development) Act, 2016*]

### **Rule 21: Administrative powers of the Chairperson of Authority**

The Chairperson holds key administrative authority over the functioning of the Real Estate Regulatory Authority. These powers include decisions on staffing, salaries, benefits, and personnel policies; creation or abolition of posts; appointments, promotions, confirmations, and acceptance of resignations; assigning officiating duties; authorising official tours (domestic and abroad); approving medical reimbursements; granting or rejecting leave; permitting vehicle hire for official use; nominating participants for seminars, conferences, and training; inviting guests for training; sanctioning staff welfare expenses; approving the scrapping or write-off of unserviceable capital assets; and taking disciplinary action against any member, officer, or employee.

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Additionally, the Chairperson may exercise any other powers necessary for the Authority's efficient operation and for enforcing the provisions of the Act, rules, and regulations.

[Rule 21, Bihar Real Estate (Regulation and Development) Rules, 2017]

Reg 19. Functions of Secretary

(1) Principal Executive Officer: The Secretary shall be the Principal Executive Officer of the Authority, exercising powers and performing duties under the control of the Authority.

(2) Specific Powers and Duties:

- a. Custodian of the records and seal of the Authority.
- b. Receive or cause to receive all documents, including complaints, applications, and references.
- c. Scrutinize documents, seek clarifications or rectifications, and issue directions on acceptance or rejection.
- d. Prepare or cause preparation of briefs and summaries of pleadings in cases before the Authority.
- e. Perform functions delegated under the Act and Rules by general or special order.
- f. Assist the Authority in proceedings, as directed by the Chairperson.
- g. Provide notice for meetings, prepare agendas, and record minutes of Authority meetings.
- h. Authenticate orders passed by the Authority.
- i. Monitor compliance with Authority's orders and report non-compliance.
- j. Collect information, records, reports, or documents from State Government, local authorities, companies, firms, or other parties as directed by the Authority, and place them before the Authority.

(3) [Not available]

(4) Absence of Secretary: In the Secretary's absence, an officer designated by the Chairperson shall exercise the Secretary's powers and functions.

(5) Chairperson's Powers: The Chairperson, in addition to powers under Section 25 of the Act and Rule 21, may review, revoke, revise, modify, amend, alter, or otherwise change any order issued or action taken by any officer of the Authority, either suo motu or upon application.

(6) Delegation by Members: Members may, with written approval of the Chairperson, delegate to any officer of the Authority functions otherwise exercisable by the Secretary.

[Regulation 19, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

26. Removal of Chairperson and Members from office in certain circumstances:

(1) The appropriate 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

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

**(2) The Chairperson or Member shall not be removed from his office on the ground specified under clause (d) or clause (e) of sub-section (1) except by an order made by the appropriate Government after an inquiry made by a Judge of the High Court in which such Chairperson or Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.**

**26(1): Removal of Chairperson and Members from office in certain circumstances**

The appropriate Government may, following the notified procedure, remove the Chairperson or any other Member from office if—

- (a) they have been declared insolvent;
- (b) they have been convicted of an offence involving moral turpitude;
- (c) they have become physically or mentally incapable of performing their duties;
- (d) they have acquired a financial or other interest likely to adversely affect their functions; or
- (e) they have abused their position, making their continuation in office against public interest.

*[Section 26(1), Real Estate (Regulation and Development) Act, 2016]*

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26(2): Safeguards for removal on grounds of interest or abuse of position

The Chairperson or a Member cannot be removed on the grounds mentioned in clauses (d) or (e) of Section 26(1) unless the appropriate Government issues an order after an inquiry by a High Court Judge. In such an inquiry, the person must be informed of the charges and given a fair chance to present their defence. [Section 26(2), *Real Estate (Regulation and Development) Act, 2016*]

Rule 30. Inquiry into Charges Against Chairperson or Member of Authority or Appellate Tribunal

(1) Preliminary Scrutiny: If circumstances under Section 26(1)(d) or (e) (Authority) or Section 49(1) (Appellate Tribunal) arise, the State Government shall conduct preliminary scrutiny, either upon a complaint or suo motu.

(2) Appointment of Judge: If further investigation is needed, the State Government shall request the Chief Justice of the High Court to appoint a sitting or retired High Court Judge to inquire into the matter.

(3) Reference to Judge: The State Government shall forward to the Judge:

- The statement of charges, and
- Relevant supporting documents.

(4) Opportunity to be Heard: The concerned Chairperson or Member shall be given reasonable opportunity to present their case within the time specified by the Judge.

(5) Medical Examination (if applicable): In cases alleging incapacity, and if denied, the Judge may order a medical examination.

(6) Report of the Judge: After inquiry, the Judge shall submit a report with findings and reasons on each charge, along with overall observations.

(7) Decision by State Government: Based on the Judge's report and in consultation with the Chief Justice of the High Court, the State Government shall decide whether to remove or retain the Chairperson or Member.

[Rule 30, Bihar Real Estate (Regulation and Development) Rules, 2017]

27. Restrictions 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 organisation 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 appropriate Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined under clause (45) of section 2 of the Companies Act, 2013 (18 of 2013), which is not a promoter as per the provisions of this Act;

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**(b) act, for or on behalf of any person or organisation 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;**

**(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.**

### **27(1): Post-office employment restrictions for Chairperson and Members**

After leaving office, the Chairperson or a Member must not:

**(a) Take up employment in or connected with the management or administration of any person or organisation involved in work under this Act, except for employment with the appropriate Government, a local authority, a statutory authority, a government-established corporation, or a government company (which is not a promoter under this Act).**



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(b) Represent or act for any person in proceedings, transactions, negotiations, or cases involving the Authority where they had acted for or advised the Authority before leaving office.

(c) Give advice to anyone using non-public information acquired in their official capacity.

(d) Enter into service contracts, join the board of directors, or accept employment with any entity with which they had direct and significant official dealings during their tenure.

[Section 27(1), *Real Estate (Regulation and Development) Act, 2016*]

27(2): Confidentiality obligation after office

The Chairperson and Members must not disclose or share with anyone any matter that came to their attention or was considered by them while performing their official duties.

[Section 27(2), *Real Estate (Regulation and Development) Act, 2016*]

Rule 38: Budget, accounts and audit

(1) Annual accounts and budget: At the close of every financial year, the Authority must prepare a budget, maintain proper accounts and records, and prepare an annual statement of accounts in Form ‘O’.

(2) Preservation of records: These accounts and related records must be preserved for a minimum of five years.

(3) Authentication of accounts: The accounts and records must be signed by the Chairperson, Members, Secretary, and the officer in-charge of Finance and Accounts.

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**(4) Submission to State Government:** The accounts of the Authority, along with the audit report, must be submitted to the State Government at the earliest possible.

[Rule 38, Real Estate (Regulation and Development) Rules]

## **28. Officers and other employees of Authority:**

**(1) The appropriate Government may, in consultation with the Authority appoint such officers and employees as it considers necessary for the efficient discharge of their functions under this Act who 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 appointed under sub-section (1) shall be such as may be prescribed.**

### **28(1): Appointment of officers and employees**

The appropriate Government, in consultation with the Authority, may appoint the officers and employees it deems necessary for the efficient performance of functions under this Act. These personnel will work under the general supervision of the Chairperson. [Section 28(1), Real Estate (Regulation and Development) Act, 2016]

### **28(2): Service conditions of officers and employees**

The salary, allowances, and other terms and conditions of service for officers and employees appointed under Section 28(1) shall be as prescribed. [Section 28(2), Real Estate (Regulation and Development) Act, 2016]

## **Rule 39: Annual Report**

**(1) Preparation of report:** The Authority must prepare its annual report in Form ‘P’.

**(2) Additional matters:** The Authority may include any other matters it considers fit for reporting to the State Government.

**(3) Adoption and submission:** The annual report must be—

- adopted in a meeting of the Authority,
- signed by the Chairperson and Members,
- authenticated with the Authority’s common seal, and
- submitted to the State Government with requisite copies within 180 days after the close of the relevant year.

[Rule 39, Real Estate (Regulation and Development) Rules]

### **Reg 38: Personnel Policy**

The personnel policies of RERA, Bihar shall be governed by the HR Manual or Regulations issued by the Authority from time to time. [Regulation 38, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

## **29. 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 business at its meetings, (including quorum at such meetings), 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.**

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(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.

29(1): Meetings of the Authority

The Authority shall hold meetings at locations and times it determines, and shall conduct its business — including quorum requirements — in accordance with the procedural rules specified in its regulations. [*Section 29(1), Real Estate (Regulation and Development) Act, 2016*]

29(2): Presiding over meetings in absence of Chairperson

If the Chairperson cannot attend a meeting, the Members present shall choose one among themselves to preside over that meeting. [*Section 29(2), Real Estate (Regulation and Development) Act, 2016*]

29(3): Decision-making in meetings

Decisions at Authority meetings are made by a majority vote of the Members present and voting. If there is a tie, the Chairperson—or the presiding Member in their absence—has a

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second or casting vote. [Section 29(3), *Real Estate (Regulation and Development) Act, 2016*]

#### **29(4): Timely disposal of matters**

The Authority must handle matters promptly and decide them within 60 days from receiving the application. If it cannot do so within this period, it must record the reasons in writing for the delay. [Section 29(4), *Real Estate (Regulation and Development) Act, 2016*]

#### **Reg 20: Meetings of the Authority**

(1) The following rules apply to Authority meetings, except adjudicatory proceedings.

(2) A minimum of two Members is required for quorum.

(3) If quorum is not met, the meeting stands adjourned to a later date, time, and place decided by the Authority.

(4) The Chairperson presides over meetings. Members at benches outside Patna may attend via video conferencing. If the Chairperson is absent, the senior-most Member present presides.

(5) Questions are decided by majority vote. In case of a tie, the Chairperson or presiding Member has a casting vote.

(6) Each Member has one vote, unless otherwise provided in the Regulations.

(7) The Secretary, or another officer designated by the Chairperson, records and maintains minutes of meetings. The register must include names, designations, proceedings, and any dissent. Draft minutes with dissent must be sent promptly to the Chairperson.

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(8) Decisions must be recorded clearly in the minutes with reasons. Copies of approved minutes are sent to all Members, and if any invitee's statement is recorded, to that invitee as well.
[Regulation 20, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

30. 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.**

30: Vacancies or procedural defects not to invalidate proceedings

No act or decision of the Authority becomes invalid solely because—

- (a) there is a vacancy or defect in its constitution;
- (b) there is a defect in appointing a person as a Member; or
- (c) there is a procedural irregularity that does not affect the merits of the case.

[Section 30, Real Estate (Regulation and Development) Act, 2016]

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## **31. Filing of complaints with the Authority or the adjudicating officer:**

(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter 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 prescribed.

### **31(1): Filing of complaints with the Authority or adjudicating officer**

Any aggrieved person may lodge a complaint with the Authority or the adjudicating officer for violations or contraventions of the Act, rules, or regulations against a promoter, allottee, or real estate agent.

**Explanation:** The term “person” includes an association of allottees or any voluntary consumer association registered under current law.

*[Section 31(1), Real Estate (Regulation and Development) Act, 2016]*

### **31(2): Form, manner, and fees for filing complaint**

The procedure, format, and applicable fees for submitting a complaint under sub-section (1) shall be as prescribed by the

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rules. [Section 31(2), Real Estate (Regulation and Development) Act, 2016]

Rule 36: Filing of complaint with the Authority and inquiry by Authority

(1) Filing of complaint: Any aggrieved person may file a complaint (other than those reserved for adjudication by the adjudicating officer) in Form ‘M’ (triplicate until web-based) with a fee of ₹1,000 by demand draft, banker’s cheque, or online payment, in favour of the Authority.

(2) Summary inquiry procedure by Authority:

(a) On receipt, the Authority issues notice with details of alleged contravention and relevant documents to the respondent.

(b) The respondent may file a reply within the period specified in the notice.

(c) The notice may fix a date and time for further hearing, also communicated to the complainant.

(d) On the hearing date, the Authority explains the contravention:

(i) If respondent pleads guilty → Authority records plea and may impose penalty/order as fit.

(ii) If respondent contests → Authority demands explanation.

(e) If the complaint needs no further inquiry → Authority may dismiss it.

(f) If further hearing is needed → Authority may order production of documents/evidence at a fixed date.

(g) Authority may conduct inquiry based on documents and submissions.

(h) Authority may summon persons acquainted with the case to give evidence or produce documents; it is not bound by the

Indian Evidence Act, 1872.

(i) On considering evidence and submissions:

(i) If contravention is proved → Authority passes order including penalties.

(ii) If no contravention → Authority dismisses complaint with recorded reasons.

(j) If a party fails to appear, the Authority may proceed ex parte after recording reasons.

(3) Residual procedure: Day-to-day functioning aspects not covered by Act or Rules shall be governed by regulations framed by the Authority.

(4) Representation: If a party is represented under section 56, the original authorisation and written consent of the authorised person must be attached to the complaint or reply.

[Rule 36, Real Estate (Regulation and Development) Rules]

Rule 37: Filing of complaint with the adjudicating officer and inquiry by adjudicating officer

(1) Filing of complaint: Any aggrieved person may file a complaint with the adjudicating officer for claims of interest and compensation under sections 12, 14, 18, and 19. The complaint must be in Form ‘N’ (triplicate until web-based), accompanied by a fee of ₹1,000 through demand draft, banker’s cheque, or online, payable in favour of the Authority.

(2) Summary procedure of inquiry:

(a) On receipt, the adjudicating officer issues notice with details of the alleged contravention and supporting documents to the respondent.

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(b) The respondent may file a reply within the period specified in the notice.

(c) The notice may fix a date and time for further hearing, also communicated to the complainant.

(d) On the hearing date, the adjudicating officer explains the alleged contravention:

(i) If respondent pleads guilty → record plea and order payment of interest (as per Rule 15) and compensation as fit.

(ii) If respondent contests → demand explanation.

(e) If no further inquiry is needed → dismiss the complaint.

(f) If further inquiry is required → order production of documents/evidence at a fixed date.

(g) Adjudicating officer may inquire based on documents and submissions.

(h) Adjudicating officer may summon and enforce attendance of any person acquainted with the case to give evidence or produce documents; not bound by the Indian Evidence Act, 1872.

(i) After considering evidence and records:

(i) If respondent is liable → order payment of interest (Rule 15) and compensation as fit.

(ii) If respondent not liable → dismiss complaint with written reasons.

(j) If a person fails to appear, the adjudicating officer may proceed ex parte after recording reasons.

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**(3) Residual procedure:** Day-to-day functioning not covered by the Act/Rules shall be governed by regulations made by the Authority.

**(4) Representation:** Where a party is represented under section 56, the original authorisation and written consent of the authorised person must be attached to the complaint or reply.

[Rule 37, Real Estate (Regulation and Development) Rules]

### Interpretations:

#### **Imperia Structures Ltd. v. Anil Patni (2020) — Remedies under RERA and Consumer Protection Act are Concurrent:**

The Supreme Court held that the enactment of RERA does not bar homebuyers from approaching Consumer Fora under the Consumer Protection Act, 1986. Both statutes provide concurrent remedies, and consumers have the right to choose either forum. Consumer Fora can validly direct refund of amounts with interest and compensation despite the availability of RERA remedies.

[*Imperia Structures Ltd. v. Anil Patni & Anr.*, TNC 2020 (11) 14 = (2020) 10 SCC 783 = AIR 2020 SC 4554, SC:2-Nov-2020]

#### **Newtech Promoters and Developers Pvt. Ltd. v. State of UP (2021) — RERA Authorities' Jurisdiction and Concurrent Remedies with Consumer Fora:**

The Supreme Court upheld the constitutional validity of RERA provisions and clarified that RERA Authorities and Adjudicating Officers have jurisdiction to grant refund, interest, and compensation under Sections 12, 14, 18, and 19. It ruled that remedies under RERA and the Consumer Protection Act are concurrent, and arbitration clauses in builder-buyer agreements cannot override RERA's statutory remedies. Promoters are liable to refund with interest if possession is not delivered in time. [*Newtech Promoters and Developers Pvt. Ltd.*

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v. State of Uttar Pradesh & Ors., TNC 2021 (11) 13 = (2021) SCC OnLine SC 1044, SC:11-Nov-2021]

Upendra Choudhury v. Bulandshahar Development Authority (2021) — Article 32 Not Remedy for Individual

Real Estate Grievances: The Supreme Court refused to entertain a homebuyer’s petition under Article 32 seeking cancellation of builder agreements, refund, project completion, and court-monitored probes in the “Sushant Megapolis” project, holding that such reliefs require day-to-day supervision of construction, which lies outside judicial review. It emphasized that statutory remedies under the Consumer Protection Act, RERA (notably Sections 18 and 31), and the IBC are adequate and must be pursued instead, while clarifying that exceptional cases like *Amrapali* and *Unitech* remain unaffected. [*Upendra Choudhury v. Bulandshahar Development Authority, TNC 2021 (2) 6, SC: 11 Feb 2021*]

Union Bank of India v. Rajasthan Real Estate Regulatory Authority (2021) — RERA Cannot Override SARFAESI but

Homebuyer Rights Must Be Balanced: The Rajasthan High Court held that while the Real Estate Regulatory Authority has wide powers to protect homebuyers, it cannot restrain banks and financial institutions from enforcing their statutory rights under the SARFAESI Act, 2002, since Section 35 of SARFAESI gives it overriding effect; however, the Court emphasised that secured creditors must also recognise allottees’ equitable rights under RERA, ensuring that consumer protection obligations continue even after enforcement. Thus, RERA orders cannot obstruct SARFAESI proceedings, but banks’ rights are not absolute and must operate in harmony with RERA’s framework. [*Union Bank*

of India v. Rajasthan Real Estate Regulatory Authority, TNC 2021 (12) 17, Raj HC: 14 Dec 2021]

M/s Nesh India Infrastructure Pvt. Ltd. v. RERA, Bihar (2024) — Builder’s Breach, Delay, and Unauthorized Construction:

The Patna High Court dismissed the builder’s appeal and upheld the orders of the Real Estate Regulatory Authority and the Real Estate Appellate Tribunal, Bihar, which had directed delivery of possession with Completion and Occupancy Certificates, compensation for delay, and allotment of the landowners’ share under the Development Agreement. The Court ruled that construction of additional floors beyond the sanctioned plan and failure to deliver flats on time constituted breach, attracting relief under Section 31 of the RERA Act, 2016. *[M/s Nesh India Infrastructure Pvt. Ltd. v. RERA, Bihar & Ors., TNC 2024 (11) 39, Pat HC: 12-Nov-2024]*

Chandra Prakash v. State of Bihar (2025) — Criminal Case Quashed; Civil Dispute with Refund Directed:

The Patna High Court held that the complaint alleging cheating in relation to a flat booking did not disclose fraudulent intent at inception, a necessary ingredient of Section 420 IPC. The matter was essentially contractual and civil in nature, already litigated before RERA and pending in appeal. Cognizance against the Managing Director alone, without arraigning the company, was improper, and the complaint lacked the affidavit required under *Priyanka Srivastava*. Continuing the criminal proceeding would be abuse of process. The Court quashed the Magistrate’s order taking cognizance and directed the petitioner to refund ₹53,41,000 received from the complainant and her late husband with 5% interest from 25.04.2023 within four weeks of demand, failing

which 10% interest would apply. [*Chandra Prakash v. State of Bihar, TNC 2025 (3) 46, Pat HC: 28-Mar-2025*]

32. 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 appropriate Government or the competent authority, as the case may be, on,--

- (a) protection of interest of the allottees, promoter and real estate agent;**
- (b) creation of a single window system for ensuring time bound project approvals and clearances for timely completion of the project;**
- (c) creation of a transparent and robust grievance redressal mechanism against acts of omission 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 standardisation and use of appropriate construction materials, fixtures, fittings and construction techniques;**
- (f) measures to encourage grading of projects on various parameters of development including grading of promoters;**

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

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

**(i) to render advice to the appropriate Government in matters relating to the development of real estate sector;**

**(j) any other issue that the Authority may think necessary for the promotion of the real estate sector.**

### **32: Functions of Authority for promotion of real estate sector**

The Authority must work to promote a healthy, transparent, efficient, and competitive real estate sector by recommending to the appropriate Government or competent authority measures such as:

(a) Protecting the interests of allottees, promoters, and real estate agents.

(b) Establishing a single-window system for time-bound project approvals and clearances.

(c) Creating a transparent, strong grievance redressal mechanism for actions of competent authorities and their officials.

(d) Encouraging investment, especially in affordable housing, by enhancing financial assistance.

(e) Promoting environmentally sustainable and affordable housing, standardisation, and modern construction practices.

(f) Encouraging grading of projects and promoters.

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- (g) Supporting amicable conciliation of disputes through forums by consumer or promoter associations.
- (h) Facilitating digitization of land records and systems for conclusive property titles with title guarantee.
- (i) Advising the Government on real estate sector development.
- (j) Recommending any other measures necessary for the sector's promotion.

[Section 32, Real Estate (Regulation and Development) Act, 2016]

33. Advocacy and awareness measures:

- (1) The appropriate 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 appropriate 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 appropriate 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.**

33(1): Advocacy and awareness measures

When framing or reviewing policies or laws related to the real estate sector, the appropriate Government may seek the Authority's opinion on their potential impact. Upon receiving such a reference, the Authority must provide its opinion within 60 days, after which the Government may act as it deems appropriate. [Section 33(1), *Real Estate (Regulation and Development) Act, 2016*]

33(2): Non-binding nature of Authority's opinion

The opinion provided by the Authority under sub-section (1) is advisory only and does not bind the appropriate Government in making or amending policies or laws. [Section 33(2), *Real Estate (Regulation and Development) Act, 2016*]

33(3): Promotion of advocacy, awareness, and training

The Authority must implement measures to promote advocacy, raise public awareness, and provide training regarding laws and policies related to the real estate sector. [Section 33(3), *Real Estate (Regulation and Development) Act, 2016*]

34. 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;

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**(c) to maintain a database, on its website, for public viewing, and enter the names and photographs of promoters as defaulters including the project details, registration for which has been revoked or have been penalised 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 promoter or the real estate agent, as the case may be;**

**(f) to ensure compliance of the obligations cast upon the promoters, 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;**

**(h) to perform such other functions as may be entrusted to the Authority by the appropriate Government as may be necessary to carry out the provisions of this Act.**

### **34: Functions of the Authority**

The Authority's responsibilities include:

**(a) Registering and regulating real estate projects and agents under this Act.**

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(b) Publishing and maintaining a publicly accessible website of records for all registered real estate projects, including prescribed details from the registration application.

(c) Maintaining a public online database of promoters marked as defaulters, with names, photographs, project details, revoked registrations, or penalties imposed under this Act, along with reasons.

(d) Maintaining a public online database of real estate agents who have applied for and obtained registration, including those whose applications were rejected or registrations revoked, with prescribed details.

(e) Setting, through regulations, standard fees applicable to allottees, promoters, or real estate agents within its jurisdiction.

(f) Ensuring that promoters, allottees, and agents comply with their obligations under this Act, rules, and regulations.

(g) Ensuring compliance with its own regulations, orders, or directions issued under this Act.

(h) Performing any other functions assigned by the appropriate Government to give effect to the Act's provisions.

[*Section 34, Real Estate (Regulation and Development) Act, 2016*]

## **Reg 24. Records of the Authority**

**(1) Indexed Records of the Authority:** The Authority must maintain an indexed database of all its records, including complaints filed, hearings conducted, and orders or documents issued. [*Regulation 24(1), Bihar Real Estate Regulatory Authority (General) Regulations, 2024*]

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(2) Supply of Certified Copies: The Chairperson may allow certified copies of orders, documents, or papers to be provided on application in Amended Form 6, subject to fees and conditions set by him. An officer must be designated to ensure responses are issued within 14 working days of receiving a request. [Regulation 24(2), Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

(3) Confidential or Privileged Records: The Chairperson may declare certain records confidential or privileged, restricting their inspection, certified copy supply, or usage except with specific authorization. [Regulation 24(3), Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

(4) Public Access to Information: The Authority must make information of public interest accessible through its website. [Regulation 24(4), Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

(5) Information and Appellate Officers under RTI Act: The Chairperson may designate one officer as the Information Officer and another as the Appellate Authority under the Right to Information Act, 2005. [Regulation 24(5), Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

Reg 37. Administrative Charges and Standard Fees

The Authority may, by order, prescribe standard fees payable by litigating parties, promoters, real estate agents, or allottees. These charges may cover services such as inspection of documents, obtaining certified copies, updating the website, database management, and website maintenance. [Regulation 37, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

RERA Bihar, Office Order No. RERA / Fees / Misc. / 014 / 2024 / 49 dated 13.05.2024 — RERA Bihar Office Order on Fees

Seeks to revise the fee structure earlier fixed in 2019. The revised rates are:

- (a) certified copies of documents – ₹100 per page;
- (b) filing written statements – ₹200 per page;
- (c) filing application/rejoinder/vakalatnama/POA during hearing – ₹100 per case;
- (d) restoration of cases – ₹1,000 per case;
- (e) inspection of case files – ₹1,000 per file;
- (f) local site inspection by the Authority – within 30 km radius: ₹5,000, between 30–60 km: ₹10,000, and beyond 60 km: ₹15,000;
- (g) amendments in applications/certificates – ₹2,000 per amendment.

The order also notes that revised fees for late submission of QPRs and annual reports will be issued separately. The revised fee schedule takes immediate effect with the approval of the competent authority. [*RERA Bihar, Office Order No. RERA/Fees/Misc./024/2024/49 and Memo No.223, dated 13.05.2024, TNC 2024 (5) 27*]

RERA Bihar, Corrigendum, No. RERA / Fees / Misc. / 014 / 2024 / 49, dated 27.05.2024 — Revised Fees for Certified Copies and Written Statements (RERA Bihar)

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Seeks to partially amend its earlier Office Order No. 49 (Memo No. 223 dated 13.05.2024) relating to revised fees. The new structure prescribes that –

(a) for obtaining certified copies of documents:

(i) the fee for the first five pages is ₹200, and

(ii) for every page beyond five pages the fee is ₹40.

(b) for filing a written statement, the fee is ₹400.

All other fee rates as revised earlier by Memo No. 223 dated 13.05.2024 remain unchanged. The corrigendum takes immediate effect, with the approval of the Competent Authority, and is issued under the authority of the Secretary, RERA Bihar. [*RERA Bihar, Corrigendum, No. RERA/Fees/Misc./014/2024/49, dated 27.05.2024, TNC 2024 (5) 26*]

### **Interpretations:**

**Bikram Chatterji v. Union of India (2020) — Supreme Court Safeguards Homebuyers in Amrapali Fraud:** The Supreme Court, exercising powers under Article 142, directed NBCC to complete Amrapali projects with immunity from other forums, answerable only to itself. It upheld 12% interest against Royalgolf for retaining buyers' funds, rejected hardship pleas, and ordered unused FAR to be sold by the Court Receiver to finance completion. Banks were mandated to release loans even for NPAs, and Noida/Greater Noida Authorities were restricted to 8% interest on dues instead of penal rates, ensuring timely project delivery. [*Bikram Chatterji v. Union of India, TNC 2020 (6) 24, SC:10 June 2020, CP: REA 34*]

**NCPL Infracon v. Jyotsana Rajendra Shah (2021) — RERA Must Decide Preliminary Objections Before Proceeding:** The

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Gujarat High Court, exercising writ jurisdiction under Article 226, directed the RERA Authority to decide the promoter's preliminary objections raised in response to a complaint under Section 18 of the RERA Act. The Court clarified that it was not going into the merits of the dispute but emphasized that objections must be adjudicated independently and expeditiously in accordance with law. The writ petition was accordingly disposed of with these directions. [*NCPL Infracon v. Jyotsana Rajendra Shah*, TNC 2021 (2) 8, Guj HC: 4-Feb-2021, CP: REA 34]

### **35. Powers of Authority to call for information, conduct investigations:**

**(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 thereunder, it may, by order in writing and recording reasons therefor call upon any promoter 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 promoter 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 (5 of 1908) while trying a suit, in respect of the following matters, namely:--**

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- (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;**
- (iv) any other matter which may be prescribed.**

### **35(1): Power to Seek Information and Conduct Inquiries**

The Authority may, if it finds it necessary—either on receiving a complaint or on its own initiative—issue a written order (with recorded reasons) requiring any promoter, allottee, or real estate agent to provide specified written information or explanations about their affairs under this Act, rules, or regulations. It may also appoint one or more persons to inquire into the affairs of such promoter, allottee, or agent. [Section 35(1), *Real Estate (Regulation and Development) Act, 2016*]

### **35(2): Civil Court Powers of the Authority**

When acting under Section 35(1), the Authority has the same powers as a civil court under the Code of Civil Procedure, 1908, in relation to:

- (i) requiring discovery and production of books of account and other documents at specified places and times;**
- (ii) summoning and enforcing attendance of persons and examining them under oath;**
- (iii) issuing commissions for examination of witnesses or documents; and**

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(iv) any other matters as may be prescribed.

[Section 35(2), *Real Estate (Regulation and Development) Act, 2016*]

Rule 24. Additional Powers of the Authority

(1) Power to Seek Information: In addition to the powers under Section 35(2)(iv) of the Act, the Authority may require a promoter, allottee, or real estate agent to furnish written information, explanation, or produce documents within a reasonable time.

(2) Power to Requisition Records: The Authority may requisition any public record or document, or copies thereof, from any office, subject to Sections 123 and 124 of the Indian Evidence Act, 1872.

(3) Power to Engage Experts: The Authority may engage experts or consultants from disciplines such as economics, commerce, accountancy, real estate, competition, construction, architecture, law, engineering, or other fields, to assist in inquiries or proceedings.

(4) Inquiry into Payments: The Authority may, in the interest of allottees, examine the payment of penalties, interest, or compensation by promoters to ensure that:

(a) such amounts have not been withdrawn from the designated account under Section 4(2)(1)(D);

(b) funds from allottees of that project or other projects have not been misused;

(c) the promoter has not recovered penalty, fine, or compensation amounts from allottees.

[Rule 24, Bihar Real Estate (Regulation and Development) Rules, 2017]

Reg 23. Orders of the Authority

(1) Passing of Orders in Proceedings: The Authority, Chairperson, Members, Adjudicating Officer, or any delegated officer shall pass orders after hearing proceedings. Such orders must be signed by the respective authority.

(2) Certification and Publication of Orders: All orders and decisions must be certified by an officer authorized by the Chairperson, bear the official seal of the Authority, and be uploaded on the Authority's website.

[Regulation 23, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

Reg 26. Confidentiality

(1) Bench's Role in Deciding Confidentiality: The Bench shall assess whether documents or evidence submitted by a party and claimed as confidential should indeed be withheld from disclosure. The Bench must record brief written reasons for its conclusion.

(2) Directions When Confidentiality is Justified: If the Bench upholds the claim of confidentiality, it may restrict disclosure to certain parties. However, the claiming party must provide a brief non-confidential summary outlining the substance and significance of the confidential document.

(3) Use of Confidential Documents in Decisions: Even if documents are deemed confidential, the Bench may consider their contents while arriving at its decision.

*[Regulation 26, Bihar Real Estate Regulatory Authority
(General) Regulations, 2024]*

Reg 27. Rectification of Orders

Any person may file a rectification petition in respect of an order passed under Section 31 of the Act, as permitted by Section 39 of the Act, upon payment of a fee of ₹250 (Rupees two hundred fifty only). *[Regulation 27, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

Reg 28. Continuance of Proceedings after Death etc.

(1) Continuation of Proceedings after Death or Insolvency: If a party in a proceeding dies, is declared insolvent, or in the case of a company under liquidation/winding up, the proceeding shall continue with the surviving partners, successors-in-interest, executor, administrator, receiver, liquidator, or other legal representatives.

(2) Authority's Power to Abate Proceedings: The Authority may record reasons to treat the proceedings as abated and dispense with bringing successors-in-interest on record.

(3) Application to Bring Successors on Record: Any person seeking to bring successors-in-interest on record must apply within 90 days of the event. The Authority may condone delay if sufficient cause is shown.

*[Regulation 28, Bihar Real Estate Regulatory Authority
(General) Regulations, 2024]*

Reg 31. Saving of Inherent Power of the Authority

(1) Authority's Inherent Powers: Nothing in the Regulations limits the Authority's inherent power to make orders necessary to meet the ends of justice or prevent abuse of its process.

(2) Power to Adopt Alternate Procedure: The Authority may adopt a procedure different from the Regulations, including a summary procedure, if special circumstances require it. Such a deviation must conform to the Act or Rules and be supported by recorded reasons in writing.

(3) Power in Absence of Specific Regulations: Where no specific regulation exists, the Authority may deal with the matter, exercise powers, or perform functions under the Act or Rules in any manner it deems fit.

[Regulation 31, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

Reg 32. Execution of Orders

Any order passed by the Authority, Chairperson, Members, Adjudicating Officer, or any officer of the Authority exercising delegated powers must be complied with within the stipulated time. If the Respondent/Promoter fails to comply, the complainant may file an Execution Petition in Form 8, along with a fee of ₹100 (or such amount as may be prescribed from time to time). *[Regulation 32, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

Reg 34. Extension of Time Prescribed

The Authority may, by order, extend the time fixed under these Regulations or its own orders for performing any act, if sufficient cause is shown. This power applies even if the prescribed period has already expired, provided it is consistent with the Act and the

Rules. *[Regulation 34, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

Reg 35. Effect of Non-Compliance

Failure to comply with requirements of these Regulations will not automatically invalidate proceedings. However, if the Authority determines that such failure has caused a miscarriage of justice, the proceeding may be affected. *[Regulation 35, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

Reg 36. Costs

(1) Authority’s Discretion on Awarding Costs: The Authority or Bench may award costs for and incidental to proceedings, subject to conditions and limitations it deems fit. It has full power to decide who shall bear the costs, from what funds, to what extent, and may issue necessary directions accordingly.

(2) Payment and Enforcement of Costs: Costs must be paid within 60 days from the date of the order, or within such extended time as directed by the Authority/Bench. If the party fails to pay within this period, the order awarding costs shall be executed like a decree/order of a Civil Court. *[Regulation 36, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

Interpretations:

M/s Chitra Homes Pvt. Ltd. v. Union of India & Ors. (2020)

— RERA Jurisdiction over Completed Projects: The Patna High Court held that before initiating proceedings under the Real Estate (Regulation and Development) Act, 2016 (RERA), the jurisdiction and applicability of the Act to the project must first be determined. The petitioner argued that its project “Chitra

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Residency” had been completed in 2016 with most flats sold and occupied, hence it fell outside RERA’s purview (which applies from 01.05.2017). The Court noted clarifications issued by RERA authorities themselves that projects completed before the cut-off date with occupancy/completion certificates would not come under RERA. It criticized the reliance on an investigation report prepared behind the petitioner’s back. Directing that respondent RERA authorities must first decide jurisdiction and applicability of the Act and also consider objections regarding the investigation report before passing any final order, the Court disposed of the writ. [*M/s Chitra Homes Pvt. Ltd. v. Union of India & Ors.*, (PatHC:14 Jan 2020) TNC 2020 (1) 8]

**M/s Pahi Construction Pvt. Ltd. v. Atma Nand Jha & Anr. (2020) — RERA Authority Cannot Freeze Bank Accounts or Ban Real Estate Activities:** The Bihar Real Estate Appellate Tribunal held that while RERA Authorities have powers under Section 35 of the RERA Act, 2016 and Rule 36 of the Bihar Rules, 2017 to conduct inquiries, summon evidence, and impose penalties for non-registration or non-compliance, they do not have jurisdiction to freeze bank accounts of promoters, restrain companies from carrying out real estate activities, or direct other regulators like the ROC or Income Tax Department to take punitive action. Such coercive measures fall outside the statutory framework. The impugned orders freezing accounts and prohibiting business were thus set aside, though proceedings for registration and penalties under the Act were allowed to continue. [*M/s Pahi Construction Pvt. Ltd. v. Atma Nand Jha*, TNC 2020 (4) 15, Appeal No. 16 of 2019, BREAT: 3-Apr-2020]

### **36. Power to issue interim orders:**

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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 promoter, 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.

36: Power to Issue Interim Orders

If, during an inquiry, the Authority finds that a violation of the Act, rules, or regulations has occurred, is continuing, or is about to occur, it may issue an order restraining any promoter, allottee, or real estate agent from continuing or initiating such act. This restraint can be imposed without prior notice if the Authority considers it necessary, and will remain in force until the inquiry concludes or until further orders. [*Section 36, Real Estate (Regulation and Development) Act, 2016*]

Reg 25. Interim Orders, Investigation, and Collection of Information

(1) Power to Issue Interim Orders: The Authority may pass ad-interim or interim orders at any stage of proceedings, as deemed appropriate considering the facts and circumstances of the case. [*Regulation 25(1), Bihar Real Estate Regulatory Authority (General) Regulations, 2024*]

(2) Directions for Investigation and Information Collection: The Authority may issue directions or orders for inquiry, investigation, or collection of information, including but not limited to:

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- Directing the Secretary, officers, or other designated persons to study, investigate, or furnish information.
- Specifying timelines for reports or information to be submitted.
- Authorising officers to require production and examination of books, accounts, or documents.
- Requiring submission of any particulars, information, or documents necessary for discharging functions under the Act and the Rules.
- Seeking further inquiry or additional reports if earlier submissions appear insufficient.
- Issuing incidental, consequential, or supplemental directions.
- Taking assistance from the police or other authorities if necessary.

*[Regulation 25(2), Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

**(3) Opportunity to Contest Reports:** If any report or information obtained under Regulation 25(2) is relied upon by the Authority for forming an opinion in proceedings, the concerned parties shall be given a reasonable opportunity to file objections and make submissions. *[Regulation 25(3), Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

### **37. 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 promoters or allottees or real estate agents, as**

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the case may be, as it may consider necessary and such directions shall be binding on all concerned.

37: Powers of Authority to Issue Directions

To carry out its functions under the Act, rules, or regulations, the Authority may issue directions to promoters, allottees, or real estate agents as it deems necessary, and such directions are binding on all concerned. [*Section 37, Real Estate (Regulation and Development) Act, 2016*]

Reg 29. Issue of Orders and Directions

Subject to the provisions of the Act, Rules, and Regulations, the Authority may issue orders and directions from time to time regarding the implementation of the Regulations and the procedure to be followed, as it deems appropriate. [*Regulation 29, Bihar Real Estate Regulatory Authority (General) Regulations, 2024*]

Interpretations:

Raj Kumar & Ors. v. M/s Star India Construction Pvt. Ltd. & Ors. (2021) — Police Deployment Order Set Aside as being out of jurisdiction:

The Bihar Real Estate Appellate Tribunal (BREAT) partly allowed the appeal of landowners by setting aside the RERA Adjudicating Officer’s direction to the SSP Patna for police deployment at the project site, holding that such matters fall under the jurisdiction of authorities under the Police Act, 1861 and CrPC, 1973. However, the Tribunal upheld RERA’s powers to regulate the project “Shiv Bhajju Vihar,” emphasizing that promoters must update project webpages quarterly, use quality construction materials, and disclose sanctioned plans as required under Sections 4, 5, 6, 11, and 19 of the RERA Act, 2016. Any breach attracts penalty under Section

61. Thus, while the law and order aspect was removed, the promoter's statutory obligations were reinforced. [*Raj Kumar & Ors. v. M/s Star India Construction Pvt. Ltd. & Ors., TNC 2021 (1) 5, Appeal No. 15 of 2020, BREAT: 19-Jan-2021*]

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 promoters, 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 suo motu, make reference in respect of such issue to the Competition Commission of India.

38(1): Power to Impose Penalty or Interest

The Authority may impose penalties or interest for any breach of obligations by promoters, allottees, or real estate agents under the

Act, rules, or regulations. [Section 38(1), *Real Estate (Regulation and Development) Act, 2016*]

38(2): Procedure and Principles of Natural Justice

The Authority must follow the principles of natural justice and, within the framework of the Act and its rules, has the power to regulate its own procedure. [Section 38(2), *Real Estate (Regulation and Development) Act, 2016*]

38(3): Reference to Competition Commission of India

If an issue arises concerning any agreement, action, omission, practice, or procedure that—

(a) significantly prevents, restricts, or distorts competition in the development of a real estate project; or

(b) involves abuse of market power or monopoly to the detriment of allottees,

the Authority may, on its own motion, refer the matter to the Competition Commission of India.

[Section 38(3), *Real Estate (Regulation and Development) Act, 2016*]

39. Rectification 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:

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**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:**

### **39: Rectification of orders**

The Authority may, within two years from the date of an order under this Act, amend it to correct any mistake apparent from the record. Such correction can also be made if a party brings the mistake to its notice. However—

- No amendment is allowed for an order against which an appeal has been filed under this Act.
- The Authority cannot alter the substantive part of its order while correcting an apparent mistake.

*[Section 39, Real Estate (Regulation and Development) Act, 2016]*

### **40. Recovery of interest or penalty or compensation and enforcement of order, etc:**

**(1) If a promoter 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 adjudicating 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 promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.**

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**(2) If any adjudicating 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, in such manner as may be prescribed.**

#### **40(1): Recovery of interest, penalty, or compensation**

If a promoter, allottee, or real estate agent fails to pay any interest, penalty, or compensation imposed by the adjudicating officer, Regulatory Authority, or Appellate Authority under this Act or its rules and regulations, the amount shall be recovered from them as arrears of land revenue, in the manner prescribed. [Section 40(1), *Real Estate (Regulation and Development) Act, 2016*]

#### **40(2): Enforcement of orders and directions**

If the adjudicating officer, Regulatory Authority, or Appellate Tribunal issues an order or direction to any person—requiring them to do or refrain from doing an act within their powers under this Act or its rules or regulations—and that person fails to comply, the order or direction shall be enforced in the manner prescribed. [Section 40(2), *Real Estate (Regulation and Development) Act, 2016*]

#### **Rule 25. Recovery of Interest, Penalty and Compensation**

The Authority shall recover any due amounts, including interest, penalty, or compensation, as arrears of land revenue in accordance with the procedure laid down under applicable local laws. [Rule 25, *Bihar Real Estate (Regulation and Development) Rules, 2017*]

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26. Manner of Implementation of Orders, Directions or Decisions

Every order, direction, or decision of the adjudicating officer, the Authority, or the Appellate Tribunal shall be enforced in the same manner as if it were a decree or order of the principal civil court. If the adjudicating officer, the Authority, or the Tribunal is unable to execute such order, it may forward it to the principal civil court within whose jurisdiction either the real estate project is situated or the person against whom the order is passed resides, carries on business, or personally works for gain. [*Rule 26, Bihar Real Estate (Regulation and Development) Rules, 2017*]