

Info Capsule

REGULATION OF REAL ESTATE SECTOR BECOMES A REALITY ENDING NINE YEAR WAIT¹

Ending the nine year long wait, regulation of real estate sector involving over 76,000 companies across the country becomes a reality from i.e. May 1, 2017 with the Real Estate (Regulation & Development) Act, 2016 coming into force.

With all the 92 Sections of the Act coming into effect, developers shall get all the ongoing projects that have not received Completion Certificate and the new projects registered with Regulatory Authorities within three months i.e. by July end. This enables the buyers to enforce their rights and seek redressal of grievances after such registration.

Minister of Housing & Urban Poverty Alleviation Shri M. Venkaiah Naidu in his tweets on the occasion said; “Real Estate Act coming into force after a nine year wait marks the beginning of a new era making buyer the King while developers benefit from the confidence of the King in the regulated environment. Prime Minister Shri Narendra Modi’s personal interest in the matter made the Act a reality now. The Act ushers in the much desired accountability, transparency and efficiency in the sector with the Act defining the rights and obligations of both the buyers and developers. This important legislation gained momentum under this Government and could see the light finally”.

Ahead of the Act coming into force, Ministry of Housing & Urban Poverty Alleviation has formulated and circulated Model Real Estate Regulations for adoption by the Regulatory Authorities in the States/UTs. Under these Regulations, developers are required to display sanctioned plans and layout plans of at least 3 feet X 2 feet size at all marketing offices, other offices where properties are sold, all branch offices and head office of the promoters in addition to the site of project. Real Estate Regulatory Authorities may take decisions on all issues preferably through consensus failing which through voting with Chairman using Casting Vote in case of a tie. There shall be quorum for the meetings of the Regulatory Authorities and if a meeting is adjourned due to lack of such quorum, such meeting can take place without quorum. Members of Regulatory Authorities shall declare interest if any in the matters coming up for discussion and shall not participate there in.

Some of the major provisions of the Act, besides mandatory registration of projects and Real Estate Agents include:

1. Depositing 70% of the funds collected from buyers in a separate bank account in case of new projects and 70% of unused funds in case of ongoing projects;

¹ Available at: <http://pib.nic.in/newsite/erelease.aspx?relid=161410>

2. Projects with plot size of minimum 500 sq.mt or 8 apartments shall be registered with Regulatory Authorities;
3. Both developers and buyers to pay the same penal interest of SBI's Marginal Cost of Lending Rate plus 2% in case of delays;
4. Liability of developers for structural defects for five years; and
5. Imprisonment of up to three years for developers and up to one year in case of agents and buyers for violation of orders of Appellate Tribunals and Regulatory Authorities.

Further to several rounds of consultations, the Ministry of HUPA has made several and substantial changes in the Real Estate Bill that was first introduced in the Rajya Sabha in 2013 to make the final Act more effective towards promotion of the sector.

At the time of passing of the Bill in Rajya Sabha in March last year, there were 76,044 companies were operating in the real estate sector including 17,431 in Delhi, 17,010 in West Bengal, 11,160 in Maharashtra, 7,136 in Uttar Pradesh, 3,054 in Rajasthan, 3,004 in Tamil Nadu, 2,261 in Karnataka, 2,211 in Telangana, 2,121 in Haryana, 1,956 in Madhya Pradesh, 1,270 in Kerala, 1,202 in Punjab and 1,006 in Odisha.

As per industry information, between 2011 and 2015, real estate projects in the range of 2,349 to 4,488 projects were launched every year amounting to a total of 17,526 projects with a total investment of Rs.13.70 lakh cr in 27 cities including 15 State capitals. About ten lakh buyers invest every year with the dream of owning a house.

Chronology of events leading to regulation of real estate sector including both residential and commercial segments from May 1, 2017:

1. May, 2008 : Ministry of HUPA first prepared a Concept Paper on regulation of real estate sector and a model law for legislation by States/UTs;
2. Conference of Ministers of Housing in 2011 suggested a central law for regulation of real estate sector;
3. July, 2011 : Ministry of Law & Justice too suggested central legislation for regulation;
4. June, 2013 : Union Cabinet approved Real Estate Bill, 2013
5. August, 2013 : Real Estate Bill was introduced in Rajya Sabha and was referred to Standing Committee;
6. February, 2014 : Report of Standing Committee was laid on the Tables of both Houses of Parliament;
7. February, 2014 : Attorney General upheld validity of central law for regulation of the sector
8. April, 2015 : Union Cabinet approved official amendments based on recommendations of Standing Committee;
9. May, 2015 : Matter referred to the Select Committee of Rajya Sabha;
10. July, 2015 : Report of Select Committee tabled in Rajya Sabha
11. December, 2015 : Real Estate Bill, 2015 incorporating several modifications based on Select Committee report and stakeholder consultations was approved by the Union Cabinet;
12. March 10, 2016: The Real Estate (Regulation & Development) Bill, 2016 passed by Rajya Sabha;

13. March 15, 2016: Lok Sabha passed the Bill as passed by Rajya Sabha;
14. March 25, 2016: President gives assent to the Bill;
15. April 26, 2016 : 59 Sections of the Act were notified making them effective from May 1, 2016 enabling preparation of Real Estate Rules, setting up of Regulatory Authorities and other infrastructure;
16. April 19, 2017 : Remaining 32 Sections of the Act notified making them effective from May 1st this year requiring registration of projects within three months from tomorrow;
17. May 1, 2017 : New era begins for development of real estate sector in an atmosphere of investor confidence.

GANGA SWACHHTA SANKALP DIVAS ON MAY 02, 2017²

National Mission on Clean Ganga (NMCG) will be observing *Ganga Swachhta Sankalp Divas* on May 02, 2017 at 12 locations, namely - Kanpur, Allahabad, Varanasi, Patna, Bhagalpur, Sahibganj, Kolkata, Raj Ghat (Hardoi), Bithoor, Srinagar (Uttarakhand), Vidhur Kuti (Bijnor) and Devprayag. The event would also be organized at more than 30 other locations through *Ganga Vichar Manch*, local NGOs and volunteer support.

Union Minister for Water Resources, River Development and Ganga Rejuvenation Sushri Uma Bharti would attend the events at Vidhur Kuti , Srinagar and Devprayag. Events at other locations shall be presided by various Central and State level dignitaries and functionaries, and senior officials from Ministry of Water Resources, River Development & Ganga Rejuvenation and NMCG.

The objective of the *Ganga Swachhta Sankalp Divas* is to spread awareness and evoke active involvement of the masses through *Ganga Swachhta Sankalp* (Pledge) reiterating their commitment to *Swachh Ganga* through a series of events like *Swachhta sandesh rally*, *Shram daan*, plantation, *Swachhta sankalp* etc. to develop a sense of pride and ownership among citizens to engender support for Namami Gange programme.

Ganga Vichar Manch, a volunteer wing of NMCG would execute the aforesaid events in close coordination with State Programme Management Groups, State Government Departments/ Agencies, District Administration and other key stakeholders at each location respectively.

It may be recalled that NMCG observed 16 days long '*Ganga Swachhta Pakhwada*' along five Ganga Basin States, which was launched at Allahabad on March 16, 2017 and concluded on March 31, 2017 at Haridwar. The *pakhwada* emerged as a mass movement and witnessed active involvement and participation of various stakeholders. Considering the success and overwhelming response and active participation of various communities in the *pakhwada*, NMCG is organizing '*Ganga Swachhta Sankalp Divas*' on May 02, 2017.

² Available at : <http://pib.nic.in/newsite/erelease.aspx?relid=0>

CENTRAL BOARD OF DIRECT TAXES (CBDT) SIGNS TWO UNILATERAL ADVANCE PRICING AGREEMENTS (APAS) WITH INDIAN TAXPAYERS, STRENGTHENING THE GOVERNMENT'S COMMITMENT TO FOSTER A NON-ADVERSARIAL TAX REGIME³

The Central Board of Direct Taxes (CBDT) has entered into two Unilateral Advance Pricing Agreements (APAs) with Indian taxpayers, strengthening the Government's commitment to foster a non-adversarial tax regime. Both the agreements also have a "Rollback" provision in them.

The 2 APAs signed pertain to Information Technology and Banking & Finance sectors of the economy. The international transactions covered in these agreements include Software Development services, IT enabled services and KPO services.

With these, the total number of APAs entered into by the CBDT has reached 154, which includes 11 bilateral APAs and 143 unilateral APAs. The CBDT expects more APAs to be concluded and signed in the near future. The approach and functioning of the officers in the APA teams have been appreciated and acknowledged by the industry in India and abroad.

The APA Scheme was introduced in the Income-tax Act in 2012 and the Rollback provisions were introduced in 2014. The scheme endeavours to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and determining the arm's length price of international transactions in advance for the maximum of five future years. Further, the taxpayer has the option to rollback the APA for four preceding years. Since its inception, the APA scheme has attracted tremendous interest among Multi National Enterprises (MNEs) and that has resulted in more than 800 applications (both unilateral and bilateral) having been filed in just five years.

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³ Available at: <http://pib.nic.in/newsite/erelease.aspx?relid=0>