Punjab Apartment and Property Regulation Act, 1995.

CHAPTER I

Preliminary

1. (1) This Act may be called the Punjab Apartment and Property Regulation Act, 1995.

(2) It shall extend to the whole of the State of Punjab.

(3) This Act shall come into force on such date as the State Government may be notification in the Official Gazette, appoint and different dates may be appointed for different areas of the State.

2. In this Act, unless the context otherwise requires,-

(a) "advertisement" means any board, device, letter, model, notice, placard, sign, word, or representation in any manner whatsoever, wholly or in part, intended for being announced or displayed so as to make it generally known;

(b) "allottee" in relation to an apartment or plot, means the persons to whom such apartment or plot has been allotted, sold or otherwise generally known;

(c) "apartment" whether called block, chamber, dwelling unit, flat, lot, premises, suite, tenement, unit by any other name, means a separate and self-contained part of any property, including one or more rooms or enclosed spaces, located on one or more floors, or, any part or parts thereof, in a building, or in a plot of land, used or intended to be used for residence, office, shop, showroom, or godown or for carrying on any business, industry, occupation, profession or trade, or for any other type of independent use ancillary to the purpose specified above and with a direct exit to a public street, road or highway or to a common area leading to such street road or highway, and includes any garage or room whether or not adjacent to the building in which such apartment is located, provided by the promoter for the use by the allottee for parking any vehicle or, as the case may be, for the residence of any domestic servant employed in such apartment;

Explanation.- (1) If a basement, cellar, garage, room, shop or storage space is sold separately from any apartment, it shall be treated as an independent apartment and not as part of any other apartment or of the common areas and facilities;

(d) "apartment number" means the number, letter or combination thereof, designating an apartment;

(e) “apartment owner” means the person owning an apartment and an undivided interest in the common areas and facilities appurtenant to such apartment in the percentage specified in the conveyance deed of apartment.

Explanation.- A member of co-operative housing society of the tenant co-partnership type, or an allottee under a hire-purchase agreement, will be deemed to be an owner entitled to membership of the association;

(f) “association” means an association consisting all the apartment owners in a building acting as a group in accordance with the bye laws made by the association under the Punjab Apartment Ownership Act, 1955.

(g) “building” means a building constructed on any land, containing eleven or more apartments, or two or more buildings with a total of eleven or more apartments, or any exiting building converted into eleven or more apartments;

(h) “building regulations” means the rules or regulations or bye-laws made under any law for the time being in force for the erection or re-erection of buildings or parts thereof and for the purpose of this Act includes Zoning Regulations framed under any law for the time being in force;

(i) “colony” means an area of land not les than one thousand square metres divided or proposed to be divided into plots for residential, commercial or industrial purpose, but does not include any area of abadi deh of a village falling inside its Lal Lakir or phirny or any area of land divided of proposed to be divided-

(i) for the purpose of agriculture; or

(ii) as a result of family partition, inheritance, succession or partition of joint holdings not with the motive of earning profit; or

(iii) by the owner of a factory for setting up a housing colony for the labourers or the employees working in the factory;

Provided that there is no profit motive:

Explanation,- The term “agriculture” used in clause (i) shall include horticulture, dairy farming and poultry farming;

(j) “common areas and facilities”, in relation to a building, means all parts of the building or the land on which it is located and all easements, rights and appurtenances belonging to the land or the building, which are neither in the exclusive possession of an apartment owner in terms of his conveyance deed of apartment, not are handed

over or intended to be handed over to the local authority or other public service agency and shall include the limited common areas and facilities;

(k) "common expenses" means-

(i) all sums lawfully assessed against the apartment owners by the association for meeting the expenses of administration, maintenance, repair or replacement of the common areas and facilities;

(ii) expenses, declared by the provisions by this Act or by the bye-laws made by the association under the Punjab Apartment Ownership Act, 1995, or agreed upon by the association, as common expensed;

(iii) the Government and municipal taxes, including ground rent and property tax, which is not assessed separately for each apartment;

(l) "competent authority" means any person or authority appointed by the State Government, by notification in the Official Gazette, to exercise and perform all or any of the powers and functions of the competent authority under this Act and the rules made thereunder;

(m) "development charges" means the cost of external development works and internal development works;

(n) "development works" means internal development works and external development works;

(o) "estate agent" means a person who negotiates or acts on behalf of one person in a transaction of transfer of his property, whether by way of sale, lease, licence, mortgage or otherwise, with another person, and receives remuneration for his services in the form of commission, and includes also a person who introduces to each other for negotiation such person or their agents;

Explanation,- The person who acts as described in clause (o) shall be deemed to be an estate agent, even if he styles himself as a land or housing agent, property or real estate consultant, property dealer; realtor, or by any other name;

(p) "external development works" includes roads and road systems, water supply, sewerage and drainage systems, electric supply or any other work which may have to be executed in the periphery of, or outside, a colony for its benefit;

(q) "Government" or "State Government" means the Government of the State of Punjab;

(r) “Internal development works” means roads, foot-paths, water supply, sewers, drains, tree, planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, or any other work in a colony necessary for its proper development;

(s) “joint family” means a Hindu undivided family in the case of other person, a group the members of which are by custom joint in possession or residence;

(t) “land” means a portion of the surface of the earth, comprising the ground or soil and every thing under it or over, it, and things which are attached to the earth, such as buildings, structures and trees, things which are permanently fastened to the earth or to things attached to the earth, easements, rights and appurtenances belonging to them and benefit arising out of them, and includes the sites of villages, towns and cities;

(u) “Limited common areas and facilities” means those common are asand facilities which are designated in writing by the promoter before the allotment, sale or transfer of any apartment, as reserved for use of certain apartments to the exclusion of the other apartments;

(v) “local authority” means a corporation constituted under section 4 of the Punjab Municipal Corporation Act, 1976 (Punjab Act No. 42 of 1976) or a committee constituted under section 12 of the Punjab Municipal Act, 1911 (Punjab Act No. 3 of 1911) or any other authority notified by the State Government for the purposes of this Act;

(w) “person” includes a company, firm, co-operative society, joint family and an incorporated body of persons;

(x) “prescribed” means prescribed by rules made under this Act;

(y) “promoter’ means the person,-

(a) who constricts or causes to be constricted a building consisting of apartments, or, converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other person, and includes his assigns; or

(b) who develops land into a colony, whether or not be also constructs structures on any of the plots, for the purpose of selling to other persons, all or some of the plots, whether open or with structures thereon; and

(c) where the person who constructs or convert a building or develops a colony and the person who sells apartments or plot are different persons, the term includes both of them;

Explanation,-(1) Any development authority and any other public body so notified by the State Government are deemed to be promoter in respect of allottees of,-

(i) buildings constructed by them on land owned by them or placed at their disposal by the State Government; or
(ii) plots owned by them or placed at their disposal by the State Government;

Explanation,- (2) A person who acts as described in sub-clause (c) of clause (y) shall be deemed to be a promoter, even if,-
(i) he styles himself as a builder, colonizer, contractor, developer, estate promoter or by any other name; or
(ii) he claims to be acting as the holder of a power of attorney from the owner of the land on which the building is constructed or colony is developed;

(z) “property” means the land, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, and includes every type of right and interest in land which a person can have to the exclusion of other persons, such as possession, use and enjoyment free from interference, right of disposition, franchises and hereditaments; and

(za) “section means a section of this Act.

CHAPTER II

Regulation of Promotion of Construction, Sale, Transfer and Management of Apartments, Plots and Properties

3.(1) Notwithstanding anything in any other law for the time being in force, a promoter, who develops a colony or who constructs or intends to construct a building of apartments, shall, in all transactions with person taking or intending to take a plot or an apartment on ownership basis, be liable to give or produce, or cause to be given or produced, the information and the documents mentioned hereinafter in this section.

(2) A promoter who develops a colony or who constructs or intends to construct such building of apartments shall,-

(a) make fill and true disclosure of the nature of hi title to the land on which such colony is developed or such building is constructed, such title to the land having been duly certified by an attorney-at-law or an advocate of not less than seven years standing, after he has examined the transactions concerning it in the previous thirty years ; and if the land is owned by another person, the consent of the owner of such land to the development of the colony or construction of the building has been obtained;

(b) make full and true disclosure of all encumbrances on such land, including any right, title, interest or claim of any party in or over such land;

(c) given inspection on seven days, notice or demand,-

(i) of the layout of the colony and plan of development works to be executed in a colony as approved by the prescribed authority in the case of a colony; and

(ii) of the plan and specifications of the building built or to be built on the land as well as of the common areas and facilities and common services provided (including supply of electricity and water, sewerage and drainage systems, lifts , fire-fighting equipment), such plans and specifications being in accordance with the provisions of the building regulations, and approved by the authority which is required so to do under any law for the time being in force, indicating thereon what parts of the building and the appurtenant areas are intended to be kept as common areas and facilities in the case of apartments :

Provided that the number and size of the apartments shall conform to such building regulations, and the area of an apartment shall not exceed such limit as may be fixed by the competent authority;

(d) display or keep all the documents, plans and specifications or copies thereof referred to in clauses (a), (b) and (c) of this sub-section at the site and in his office and make them available for inspection to persons taking or intending to take a plot or an

apartment and after the association is formed, he shall furnish the association a copy of these documents and of the sanctioned plan of the building;

(e) disclose the nature of fixtures, fittings and amenities, including the provision for one or more lifts, provided or to be provided;

(f) disclose on reasonable notice or demand, if the promoter is himself the builder, the prescribed particulars as respects the design and the materials to be used in construction, and, if the promoter is not himself the builder, disclose all agreements entered into by him with the architects and contractors regarding the design, materials and construction of the building;

(g) specify, in writing, the date by which possession of the plot or apartment is to be handed over and he shall hand over such possession accordingly;

(h) except where there are no agreements about specific plots or apartments and allotment is made by draw of lots, prepare and maintain a list of plots or apartments with their numbers, the names and addresses of the parties who have taken or agreed to take plots or apartments, the price charged or agreed to be charged therefor, and the terms and conditions, if any, on which the plots or apartments are taken or agreed to be taken;

Provided that the competent authority may direct that,-

(i) in the case of residential apartments, if the total number of apartments; and

(ii) in the case of colony, of the total area of the colony is forty hectares or more, ten per cent of the area under residential plots and houses, be reserved for being sold or leases to such person belonging to such economically weaker section of society, in such manner and on such terms and conditions as may be prescribed;

(i) state in writing, the precise nature of and the terms and conditions governing the association to be constituted of persons who have taken or are to take the apartments;

(j) not allow person to enter into possession until an occupation certificate required under any law is duly given by the appropriate authority under that law and no person shall take possession of an apartment until such occupation certificate is obtained ;

(k) make a full and true disclosure of all outgoing, including ground rent, of any, municipal or other local taxes, charges for water and electricity, revenue assessment, interest on mortgages or other encumbrances, if any;

(l) give the estimated cost of the building and the apartments proposes to be constructed, or colony to be developed, and the manner in which escalation in such cost for valid reasons may be approved by mutual agreement ;

(m) make a full and true disclosure of such other information and documents in such manner as may be prescribed; and

(n) give on demand and on payment of reasonable charges true copies of such of the documents referred to in any of the clauses of this sub-section as may be prescribed.

4.(1) No promoter shall issue an advertisement or prospectus, offering for sale any apartment or plot, or inviting persons who intend to take such apartments or plots to make advances or deposits, unless,-

(a) the promoter holds a certificate of registration under sub-section (2) of section 21 and it is in force and has not been suspended or revoked, and its number is mentioned in the advertisement or prospectus; and

(b) a copy of the advertisement or prospectus is filed in the office of the competent authority before its issue or publication.

(2) The advertisement or prospectus issued under sub-section (1) shall disclose the area of the apartments or plots offered for sale, title to the land, extent and situation of land, the price payable and in the case of colonies, also layout of the colony, the plan regarding the development works to be executed in a colony and the number and the validity of the licence issued by the competent authority under sub-section (3) of section 5, and such other matters as may be prescribed.

(3) The advertisement or prospectus shall be available for inspection at the office of the promoter and at the site where the building is being constructed or on the land being developed into a colony, alongwith the documents specified in this section and in section 3.

(4) When any person makes an advance or deposits on the faith of the advertisement or prospectus, and sustains any loss or damage by reason of any untrue statement included therein, he shall be compensated by,-

(a) the promoter, if an individual;

(b) every partner of the firm, if the promoter is a firm;

(c) every person who is a director at the time of issue of the advertisement or prospectus, if the promoter is a company :

Provided, however, that such person shall not be liable if he proves that,-

(a) he withdraw his consent to become a director before the issue of the advertisement or prospectus; or

(b) the advertisement or prospectus was issued without his knowledge or consent, and on becoming aware of its issue, he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(c) after the issue of the advertisement or prospectus and before any agreement was entered into with buyers of plots or apartments, he, on becoming aware of any untrue statement therein, withdraw his consent and gave reasonable public notice of the withdrawal and of the reasons therefore.

(5) When any advertisement or prospectus includes any untrue statement, every person who authorised its issue, shall be punished with imprisonment for a term which may extend upto one year or with fine which may extend upto five thousand rupees, or, with both, unless he proves that the statement was immaterial or that he had reason to believe and did upto the time of issue of the advertisement or prospectus believe that the statement was true.

5.(1) Any promoter, who desires to develop a land into a colony, shall make an application in the prescribed form alongwith the prescribed information and with the prescribed fee to the competent authority for grant of permission for the same and separate permission will be necessary for each colony.

(2) On receipt of the application under sub-section (1), the competent authority, after making enquiry into the title to the land, extent and situation of the land, capacity of the promoter to develop the colony, layout of the colony, conformity of the development of the colony with the neighbouring areas, plan of development works to be executed in the colony and such other matters as it may deem fit, and after affording the applicant an opportunity of being heard and also taking into

consideration the opinion of the prescribed authority, shall pass an order, in writing, recording reasons either granting or refusing to grant such permission.

(3) Where an orders is passed granting permission under sub-section (2), the competent authority shall grant a licence in the prescribed form, after the promoter has furnished a bank guarantee equal to twenty five percent of the estimated cost of the development works certified by the competent authority and the promoter has undertaken to enter into an agreement in the prescribed form for carrying out completion of development works in accordance with the conditions of the licence so granted.

(4) The licence granted under sub-section (3) shall be valid for a period of three years and will be renewable from year to year on payment of prescribed fee.

(5) The promoter shall enter into agreement undertaking to pay proportionate development charges for external development works to be carried out by the Government or a local authority.

(6) The competent authority shall determine the proportion in which, and the time within which, the estimated development charges referred to in sub-section (5) shall be paid to the State Government, or the local authority, as the case may be.

(7) The promoter shall carry out and complete the development of the land in accordance with the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976) and other laws for the time being in force.

(8) The promote shall construct or get constructed at his own cost schools, hospitals, community centres and other community buildings, on the land set apart for this purpose or transfer such land to the State Government either free of cost or upon payment of actual cost of developed land, as decided by the State Government, which shall be at liberty to transfer such land to any local authority or any person or institution on such terms and conditions as it may deem fit:

Provided that if, having regard to the amenities which exist or are proposed to be provided in the locality, the competent authority is of the opinion that it is not necessary to provide one or more of such amenities, it may exempt the promoter from providing such amenities, either wholly or in part, on such terms and conditions as it may deem fit.

(9) The promote shall, where the total area of the colony is forty hectares or more, reserve upto ten per cent of the area under residential plots and apartments as the competent authority may direct, for being sold or leased to such persons belonging to such economically weaker sections of society, in such manner and on such terms and conditions, as may be prescribed.

(10) The promoter shall carry out all directions issued by the competent authority for ensuring due compliance of the execution of the layout and the development works therein and to permit the competent authority or any officer authorised by it to inspect such execution.

(11) The promoter shall be responsible for the maintenance and up keep of all roads, open spaces, public parks and public health services until the date of transfer thereof, free of cost of the State Government or the local authority.

(12) In the event of the promoter contravening any provisions of this Act, or rules made thereunder or any conditions of the licence granted under sub-section (3) the competent authority may, after giving an opportunity of being heard, cancel the licence and enforce the bank guarantee furnished by the promoter under the said sub-section(3).

(13) When a licence is cancelled under sub-section (11), the competent authority may itself carry out or cause to be carried out the development works, and after adjusting the amount received as a result of enforcement of bank guarantee, recover such charges as the competent authority may have to incur in the said development works from the promoter and the allottees in the manner prescribed as arrear of land revenue.

(14) The liability of the promoter for payment of development charges referred to in-sub section (13) shall not exceed the amount the prompter has actually recovered from the allottees less the amount actually spent on such development works, and that of the allottees shall not exceed the amount which they would have to pay to the promoter towards the expenses of the said development works under the terms of the agreement of sale or transfer entered into between them:

Provided that the competent authority may, recover from the allottees with their consent, an amount in excess of what may be admissible under the aforesaid terms of agreement of sale or transfer.

(15) Notwithstanding anything contained in this Act, after development works have been carried out under sub-section (13), the competent authority may, with a view to

enabling the promoter, to transfer the possession of, and the title to, the land to the allottees within a specified time, authorise the promoter by an order to receive the balance amount, if any, due from the allottees after adjustment of the amount which may have been recovered by the competent authority towards the cost of the development works and also transfer the possession of, and the title to, the land to the allottees within aforesaid time and if the promoter fails to do so, the competent authority shall on behalf of the promoter fails to do so, the competent authority shall on behalf of the promoter transfer the possession of, and the title to, the land to the allottees on receipt of the amount which was due from them.

(16) After meeting the expenses on development works under sub-section (13), the balance amount shall be payable to the promoter.

6.(1) Notwithstanding anything contained in any other law for the time being in force, a promoter who intends to construct or constructs a building of apartments, all or some of which are to be taken or are taken on ownership basis, or who intends to offer for sale plots in a colony, shall, before he accepts any sum of money as advance payment or deposit, which shall not be more than twenty five per cent of the sale price, enter into a written agreement for sale with each of such persons who are to take or have taken such apartments, or plots, as the case may be, and the agreement shall be in the prescribed for together with prescribed documents and shall be registered under the Registration Act, 1908 (Central Act no. 16 of 1908) ;

Provided that, if only a refundable application fee is collected from the applicant before draw of lots for allotment, such agreement will be required only after such draw of lots.

(2) The promoter shall not cancel unilaterally the agreement of sale entered into under sub-section (1) and of he has sufficient cause to cancel it, he shall give due notice to the other parties to the agreement and tender a refund of the full amount collected togetherwith interest at the rate as may be prescribed.

(3) The agreement to be prescribed under sub-section (1) shall contain *inter alia* the particulars as hereunder specified in clause (a) in respect of apartments and as specified in clause (b) in respect of plots in a colony and to such agreement shall be attached the copies of the documents specified in clause (c),-

(a) the particulars in the case of apartment,-

(i) if the building is to be constructed, the liability of the promoter to construct the building according to the plans and specifications approved by the authority which is required so to do under any law for the time being in force;

(ii) the date by which the possession of the apartment is to be handed over to the allottee;

(iii) the area of the apartment including the area of the balconies which should be shown separately:

(iv) the price of the apartment including the proportionate price of the common areas and facilities which should be shown separately, to be paid by the allotteee of the apartment and the intervals at which the instalments thereof may be paid;

(v) the precise nature of the association to be constituted of the persons who have taken the apartments;

(vi) the nature, extent and description of the common areas and facilities and the limited common areas and facilities, if any;

(vii) the percentage of undivided interest in the common areas and facilities and in the limited common areas and facilities, if any, appertaining to the apartment agreed to be sold, such percentage shall be the ratio of the built-up area of the apartment to the total built-up area of all the apartments;

(viii) the statement of the use for which the apartment is intended and restrictions on its use, if any;

(b) particulars in the case of plots in a colony,-

(i) the date by which the possession of the plot is to be handed over to allottee;

(ii) the area and price of the plot ; and

(iii) the statement of the use for which the plot is intended and restriction on its use, if any;

(c) the copies of documents to be attached with the agreement,-

(i) the certificate by an attorney-at-law or advocate referred to in clause (a) of sub-section(2) of section3;

(ii) certified copy from any relevant revenue record showing the nature of the title of the promoter to the plot or land on which the building of apartments is constructed or is to be constructed ; and

(iii) the plans and specifications of the apartment as approved by the authority which is required so to so under any law for the time being in force.

7.(1) Any agreement for sale entered into under sub- section (1) of section 6 shall be presented for registration under the Registration Act,1908,(Central Act No.16 of 1908), by the promoter or by any other person competent to do so at the proper registration office and execution thereof shall be admitted by the person executing the document or his representative, assign or agent.

(2) Where any agreement for sale is entered into or is put-ported to be entered into at any time before the commencement of this Act, such document may be admitted by any of the persons concerned within six months of the commencement of this Act, and the registering officer shall accept document for registration and register it as if it was presented and its execution admitted within time.

(3) On presenting a document for registration under sub-section (2), if the person executing such document or his representative, assign or agent does not appear before the registering officer and admit the execution of the document, the registering officer shall cause summons to be issued requiring the executant to appear at the registration office either in person or by duly authorised agent on a date fixed in the summons and if the executants fails to appear in compliance with the summons so issued, the execution of the document shall be deemed to be admitted by him and the registering officer may proceed to register the document accordingly and of the executant appears before the registering officer but denies execution of the document, the registering officer shall after giving him a reasonable opportunity of being heard, if satisfied that the document accordingly.

8. Where any agreement for sale entered into under sub-section (1) of section 6, whether entered into before or after the commencement of this Act, remains unregistered for any reason, then notwithstanding any thing contained in any law for the time being in force, or in any judgement, decree or order of any court, it may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act,1963, (Central Act No.47 of 1963), or as evidence, of part performance of a contract for the purposes of section 53A of the Transfer pf Property Act,1882, (Central Act No. iv of 1882), or as evidence of any collateral transaction not required to be effected by registered instrument.

9. The promoter shall maintain a separate account in any scheduled banks of sums taken by him from persons intending to taken or who have taken apartments or plots, as advance, towards sale price of for any other purpose, or ,deposit, including any sum so taken towards the share capital for the formation of a co-operative society or a company, or towards the outgoings(including ground rent, if any, municipal or other local taxes. charges for water or electricity, revenue assessment, interest on mortgages or other encumbrances, if any, stamp duty and registration fee for the

agreement of sale and the conveyance ; and the promoter shall hold the said moneys for the purposes for which they were given and shall disburse the moneys for those purposes including for the construction of apartments and, in the case of colonies, for meeting the cost of development works, and shall on demand, in writing, by the competent authority make full and true disclosure of all transactions in respect of that account and shall not utilise for any other purpose the amounts so collected for a particular purpose.

10. A promoter shall, while he is in possession, and, where he collects from persons who have taken or are to take apartments or plots, sums for the payments of outgoings, even thereafter, pay all outgoings (including ground rent, municipal or other local taxes, charges for water or electricity, revenue assessment, interest on mortgages or other encumbrances, if any until he transfers the property to the persons taking over the apartments or plots, where any promoter fails to pay all or any of the outgoings collected by him from the persons who have taken over or are to take over apartments or plots, before transferring the property to the persons taking over the apartments or plots, the promoter shall continue to liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be responsible for any legal proceedings which may be taken therefore by such authority or person.

11.(1) After the plans and specifications of the building as approved by the authority which is required so to do under any law are disclosed or furnished to the person who agrees to take an apartment, the promoter shall;

(i) not make any alterations in the structures described therein in respect of such apartment, without the previous consent of that person; or

(ii) not make any other alterations in, or additions to the structure of the building or construct any additional structures, without the previous consent of all the persons who have agreed to take apartments in such building.

(2) Subject to the provisions of sub-section (1), the building shall be constructed and completed in accordance with the plans and specifications aforesaid ; and if any defect in the building or material used, or if any unauthorised change in the construction is brought to the notice of the promoter within a period of two years from the date of handing over possession, it shall wherever possible be rectified by the promoter without further charge to the persons who have agreed to take the apartments, and in other cases such persons shall be entitled to receive reasonable compensation for such defects or change and where there is a dispute as regards any defect in the building or material used or any unauthorised change in the

construction, or as to whether it is reasonably possible for the promoter to rectify any such defect or change, or as regards the amount of reasonable compensation payable in respect of any such defect or change which cannot be or is not rectified by the promoter, the matter shall, on payment of such fee as may be prescribed and within a period of three years from the date of handing over possession, be referred for decision to the competent authority and the competent authority shall, after giving an opportunity of being heard to the parties and after making further enquiry, if any, as it may deem fit, record its decision and the decision so recorded shall be final.

12. If the promoter,-

(a) fails to give possession, in accordance with the terms of his agreement, of a plot or an apartment duly completed by the date specified, or any further date agreed to by the parties; or

(b) for reasons beyond his control and of his agents, is unable to give possession of the plot or the apartment by the date specified, or further agreed date; the promoter shall be liable on demand, bit without prejudice to any other remedies to which he may be liable, to refund the amounts already received by him in respect of that plot or apartments with simple interest at the rate as may be determined by the competent authority from the date the promoter received the sums till the date the amounts and interest thereon is refunded, and the amounts and the interest shall be a charge on the land on which a plot is to developed, or a building is or was to be constructed and the construction, if any, thereon shall be subject to any prior encumbrances.

13.(1) No promoter shall after he executes an agreement to sell any apartment plot, mortgage or create a charge on such apartment or the land or the plot, without the previous consent of the persons who takes or agrees to take such apartment or plot, and if any such mortgage or charge is made or created without such previous consent after the agreement referred to in section 6 is registered, it shall not affect the right and interest of such person.

(2) If a promoter has executed an agreement of sale of an apartment or a plot with a person and has not yet received from him all the amounts agreed to be paid, the latter shall not mortgage or create a charge against such apartment or plot without the previous consent of the promoter:

Provided that the promoter shall not withhold consent if the mortgage or charge is for the purpose of obtaining finance for the payment of amounts due to the promoter.

14.(1) It is the responsibility of the promoter,-

(i) in the case of apartments, to obtain from the authority required to do so under any law completion and occupation certificates for the building and if a promoter, within a reasonable time, after the construction of the building, a reasonable time, after the construction of the building, does not apply for an occupation certificate from the aforesaid authority, the allottee of an apartment may apply for an occupation certificate from the said authority; and

(ii) in the case of a colony, to obtain completion certificate from the competent authority to the effect that the development works have been completed in all aspects as per terms and conditions of the licence granted to him under section 5.

(2) The authority referred to in sub-section (1) shall, after satisfying itself about the agreement of sale between the promoter and the allottee, and the compliance of the building regulations and all other formalities, issue an occupation certificate.

15. After the occupation certificate is obtained under section 14, the promoter shall submit a copy thereof to the competent authority and thereafter he shall take all necessary steps to complete his title and convey the exclusive ownership of the apartment containing such particulars as may be prescribed and the undivided interest in the common areas and facilities appurtenant to such apartment to the person in whose favour he has executed an agreement of sale of that apartment, and execute a conveyance deed of apartment containing such particulars as may be prescribed and all other relevant documents therefore in accordance with such agreement, within three months from the date of giving possession of the apartment and also deliver all documents of title relating to the property which may be in his possession or power and the promoter shall not reserve any right in the property expect to the extent of apartments which may be in his possession or power and the promoter shall not reserve any right in the property expect to the extent of apartments which he is taking up in his own name and apartments which he is taking up in his own name and apartments which are meant for sale but are still unsold.

16. (1) If the promoter without sufficient cause fails to execute the conveyance deed of apartment and other relevant documents within three months in terms of the provisions of section 15, the person in possession of the apartment in pursuance of the agreement of sale may make an application, in writing, in the prescribed form to the competent authority for a certificate to be produced before the concerned registering officer for enforcing the registration of the transfer and on receipt of such application and after making such enquiry as may be necessary and satisfying itself that occupation certificate has been obtained from the authority required to do so under any law and the person in possession has done what he was required to do under the agreement of sale, the competent authority shall issue an occupation certificate to the registering officer that it is a fit case for enforcing registration of the

conveyance deed and direct the person who has taken the apartment to present the conveyance deed of apartment though not executed by the promoter for unilateral execution of registration.

(2) After the conveyance deed of apartment alongwith the occupation certificate issued by the competent authority under sub-section (1) is presented for registration, the registering officer shall cause a summons to be issued to the promoter and if the promoter fails to appear in compliance with the summons so issued, the execution of the instrument shall be deemed to be admitted by him and the registering officer shall proceed to register the instrument and if the promoter appears but denies execution of the conveyance deed, the registering officer, after giving him a reasonable opportunity of being heard, if satisfied that the promoter has failed to execute the conveyance deed without sufficient cause, shall proceed to register the same.

(3) If the promoter fails to execute a written agreement of sale as required by section 6, or fails to execute the conveyance deed of apartment and other relevant documents as specified in sub-section (1), within three months, the competent authority may, either on complaint or suo moto, impose for each plot or apartment for which there is default, a penalty up to a maximum of five thousand rupees, whichever is greater, and further minimum penalty for each plot or apartment of one hundred rupees for each day for which the default continues, and the penalty may be recovered as an arrear of land revenue.

(4) The penalty imposed in sub-section (3) shall be in addition to any action taken under the Indian Stamp Act, 1899 (central Act No.2 of 1899) or the Registration Act, 1908 (Central Act, 1908),and if a penalty is imposed under the provisions of any of these Acts, the promoter shall not be liable to penalty for the same offence under this Act or under any other law governing the apartment ownership.

17. (1) No promoter and no person who is responsible for the management and maintenance of a building of apartments, shall without just and sufficient cause, either by himself or through any person, cut off, withhold, curtail or reduce, any essential supply or service enjoyed in respect of such apartment by the person who has taken or agreed to take an apartment or by any person in occupation thereof or under him.

(2) If there is contravention of the provisions of sub-section (1), the person who has taken or agreed to take the apartment or the occupier thereof may make an application to competent authority for a direction to restore such supply or service.

(3) If the competent authority on enquiry finds that the person referred to in sub-section (2) has been in enjoyment of the essential supply or service and that it was cut off or withheld or curtailed or reduced without just and sufficient cause, the competent

authority shall make an order directing the restoration of such supply or service before a date to specified in the order.

(4) If the competent authority on enquiry finds that the person referred to in sub-section (2) has been in enjoyment of the essential supply or service and that it was cut off or withheld or curtailed or reduced without just and sufficient cause, the competent authority shall make and order directing the restoration of such supply or service before a date to be specified in the order.

(5) Notwithstanding anything contained in any law for the time being in force, the competent authority shall have jurisdiction to decide any application made under sub-section (2), and no other court shall have jurisdiction to entertain such application and no appeal shall lie from any order made on such application:

Provided that the State Government may for the purpose of satisfying itself that the order made was according to law, call for the case in which such an order was made and may pass such order with respect thereto as it thinks fit.

(6) Any promoter or person responsible for the management and maintenance of building or apartment, who contravenes the provisions of sub-section (1), shall on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, which may extend to five thousand rupees, or, with both.

(7) The offence under sub-section (6) shall be cognizable, and shall not triable by any court inferior to that of Judicial Magistrate of the First Class.

Explanation,-(1) In this section," essential supply or service" includes the supply of water, electricity, lights in passages and on staircase, and lifts and conservancy or sanitary service.

Explanation,-(2) For the purposes of this section withholding any essential supply or service shall include acts or omissions attributable to the promoter or the person responsible for the management and maintenance of the building or apartment, on account of which the essential supply of service is cut off by the local authority or any other authority.

18. (1) A promoter who enters into a transaction for the transfer relating to a property shall,-

(a) make full and true disclosure of the nature of his title to the property indicating clearly that his title to property has been duly certified by an attorney-at-law or an advocate of not less than seven years' standing, after he has examined transactions concerning it in the previous thirty years;

(b) make full and true disclosure of all encumbrances on such property, including any right, title, interest or claim of any party in or over such property;

(c) in case the property is land held on lease, produce consent from the lessor for the transaction;

(d) in case the property is land subject to the provisions of the Urban Land (Ceiling and Regulation) Act,1976 (Central Act No.33 of 1976), produce clearance from the competent authority under that Act;

(e) make full and the disclosure of any reservations, in the development plan framed under any law for the time being in force or restrictions on the use to which the property may be put and any development works;

(f) specify in writing the date by which possession of the property is to be handed over;

(g) make full and true disclosure of all outgoings, including groundrent, if any, municipal or other local taxes, revenue assessment, interest on any mortgage or other encumbrance, development charges for maintenance and upkeep of roads, drainage, sewerage, water supply, electricity, laid out and constructed by the Government or any local authority.

(2) No person shall issue a prospectus or advertisement offering for sale any property, unless the prospectus or advertisement indicates the place and time the documents and certificates relating to the matters specified in sub-section (1) are available for inspection.

(3) The provisions of sub-section (4) and (5) of section 4 shall apply mutatis mutandis for mis-statements in the prospectus or advertisement issued under sub-section (2) of this section.

(4) The provisions of sections 13, 15 and 16 shall apply *mutatis mutandis* to a transaction of property made under this section.

19. (1) Every allottee who has executed an agreement of sale to take an apartment or a plot under section 6 or any property under section 18 shall pay at the proper time and place, the price, the portionate share of the municipal taxes, water and electricity charges, ground rent, if any, and other charges in accordance with the agreement of sale.

(2) Any person who has executed an agreement of sale of an apartment or plot or other property and who, without reasonable excuse, fails to comply with or contravenes the

provisions of sub-section (1) shall on conviction, be punished with fine which may extend to one per cent of the price of the apartment or plot or property, as the case may be, or one thousand rupees, whichever is greater.

20. Every person, erecting or re-erecting any structure in a colony in respect whereof a licence has been obtained under sub-section (3) of section 5, shall comply with such conditions regarding use of land, layout plan, zoning regulations, site coverage, height of building, set back lines, structural and sanitary requirements, architectural control, design of buildings and material to used in erection thereof as may be prescribed.

CHAPTER III

REGISTRATION OF PROMOTERS AND ESTATE AGENTS

21.(1) From such date as may be fixed by the State Government, by notification in the Official Gazette in this behalf, no person shall carry on the business of promoter or estate agent, or represent or hold himself out as carrying on such business, except under and in accordance with the terms and conditions of the certificate of registration granted under this Act.

(2) An application for registration under sub-section (1) as a promoter, or as an estate agent, as the case may be, shall be made along with a prescribed fee in the prescribed form to the competent authority, and the competent authority on receipt of the application may enter the name of the applicant in the register of promoters, or , in the register of estate agents as the case may be, maintained under this Act in the prescribed form and grant a certificate of registration in the prescribed form to such person for the conduct of his business in accordance with the terms and conditions of the certificate of registration and the provisions of this Act and the rules made there under.

22. Before registering and granting a certificate of registration to a promoter or, an estate agent under the provisions of Section 21, the competent authority shall satisfy itself,-

(a) in the case if the application is for registration as a promoter, that the promoter himself or one of his employees, or one of the partners of the firm or one of the directors of the company, as the case may be, possesses the prescribed qualifications for conducting the business of a promoter;

(b) in the case if the application is for registration as an estate agent that the applicant possesses qualifications as may be prescribed;

(c) that the applicant furnishes to the competent authority, either a bank guarantee or a security, for such amount and in such manner as may be prescribed:

Provided that where the applicant is a statutory corporation, board or authority established under nay law for the time being in force, no such security shall be required;

(d) that the applicant produces an income-tax clearance certificate from the income tax authorities;

(e) that the applicant has not been convicted of an offence under this Act or under any law relating to construction or use of premises, or, if convicted, a period of five years has elapsed after that conviction:

Provided that an authority created for development of land or housing under any law for the time being in force, shall be exempted from these conditions, and shall be granted a certificate of registration on application.

23. Every certificate or granted registration of a promoter or an estate agent under section 21 shall be valid for a period of five years and, on the expiry of such a period, it may be renewed for another period of five years by the competent authority, on an application along with the prescribed fee, made by the promoter or the estate agent in that behalf :

Provided that the conditions referred to in section 22 continue to be fulfilled and the application has been made at least three months before the expiry of the certificate of registration.

24. If, after giving the applicant an opportunity of being heard, the competent authority, refuses to grant or renew a certificate of registration, it shall record its reasons therefore in writing and communicate the same to the applicant.

25.(1) A certificate of registration granted under section 21 shall be liable to be cancelled by the competent authority on the grounds mentioned in sub-section (2) and by an order made in writing recording the reasons for such cancellation.

(2) A certificate of registration is liable to cancelled, if the promoter or estate agent, as the case may be,-

(a) surrenders the certificate of registration as he does not wish to continue carrying on the business ;
(b) has applied to be adjudicated or he has been adjudicated an insolvent or is an un-discharged insolvent ;
(c) has been adjudicated to be of unsound mind by a competent court ;
(d) has been convicted of an offence under this Act or under any law relating to construction or use of premises and a period of five years has not elapsed after that conviction ;
(e) has contravened any of the terms or conditions of the certificate of registration or any of the provisions of this Act or the rules made thereunder.'

26.(1) Before cancelling a certificate of registration under section 25, the competent authority shall give notice to the promoter, or the estate agent, as the case may be,

specifying the grounds and calling upon him to show-cause why the certificate or registration should not be cancelled.

(2) After considering the explanation, if any, offered by the promoter, or, the estate agent, as the case may be, the competent authority may cancel the certificate of registration, or pass such orders as it my deem fit.

(3) Notwithstanding anything contained in sub-section (1) and (2), the competent authority may suspend the certificate of registration of a promoter or an estate agent as the case may b, pending decisions on the matter of cancellation of the certificate of registration.

(4) Where any certificate of registration is suspend or cancelled under this Act, no person shall be entitled to any compensation or the refund of any fee paid in respect thereof.

27. When a certificate of registration is suspended or cancelled under the provisions of section 26 or when it expires and is not renewed, under the provisions of section 23, a promoter or estate agent, as the case may be, shall cease to carry on the business and any business or activity in furtherance of his business during the period of suspension or after the expiry or cancellation of the certificate of registration, shall be deemed to be carried on without any certificate of registration for the purpose of section 21 and shall be liable for all consequences thereof :

Provided that, when decision is pending on an application for renewal of registration, no such presumption shall be made, if business is carried on after the expiry of the period of registration of certificate.

28.(1) Every registered promoter or estate agent shall maintain such accounts, registers and records in such form and manner as may be prescribed.

(2) The competent authority shall maintain such register as may be prescribed showing sufficient particular of all cases in which licence under section 5 or certificate of registration under this chapter is granted or refuses by him and the said register shall be available for inspection without charges by all interested persons and such persons shall be entitled to have extract therefrom.

29. The promoter or estate agent shall get his accounts audited after the close of every financial year by a chartered accountant, and shall produce a statement of account duly certified and signed by such chartered accountant in the manner prescribed and

it shall be verified during the audit that amounts collected for a particular purpose are not utilised for any other purpose.

30. Every registered promoter or estate agent shall submit to the competent authority such periodical returns as may be prescribed.

31. For the purpose of satisfying itself, that the requirements of this Act and rules made thereunder or the terms and conditions of the certificate of registration granted under this chapter or licence granted under section 5 of a promoter or an estate agent are duly complied with, the competent authority may inspect or cause to be inspected, at any time during business hours, any accounts or records of a promoter or an estate agent relating to such business.

CHAPTER IV
MISCELLANEOUS PROVISIONS

32.(1) Every promoter to whom a licnece has been grantee under section 5 to develop a colony or who stands exempted or to whom exemption is granted under section 44 shall deposit service charges at the rate of rupee one per square metre of the plotted area proposed to be developed by him as residential, commercial or industrial (excluding the area used by the public for general purposes) into a colony in two equal instalments, the first instalment to be deposited within sixty dates from the date of grant of licence and the second instalment to be deposited within six months from the date of grant of licence and the promoter shall in turn be entitled to pass on the service charges so paid by him to the allottees.

Explanation,- In the case of a promoter exempted under section 44, the date of first inviting applications for the sale of plots in any colony by it shall be deemed to be the date for the purposes of deposit of service charges.

(2) The amount of service charges levied under sub-section (1) of not paid within the stipulated period, shall be recoverable as arrears of land revenue.

(3) The amount of service charges deposited by the promoter under sub-section (1) or recovered under sub-section (2) shall constitute a fund to be called " the Punjab Urban Development Fund" (hereinafter refereed to as the Fund) and hall vest in such Authority as the State Government may notify in this behalf and shall be administered by that Authority.

(4) The Fund shall be utilised by the Authority notified under sub-section (3) for the benefit of the allottees, for development of the colonies, to promoter research and development in town and country and urban affairs, and for such other similar purposes as may be prescribed.

(5) The State Government shall publish annually in the Official Gazette the report of the activities financed from the Fund and the statement of accounts.

33.(1) The State Government may, by notification in the Official Gazette, appoint an office or an authority as appellate authority, (hereinafter referred to as appellate authority) with the power to decide appeals against the orders of the competent authority.

Provided that the State Government may appoint as appellate authority more than one officer or authority and distribute the work among them in the manner it may deem fit ;

(2) Any person aggrieved by any order of the competent authority under this Act, may, within a period of thirty days of the communication of the orders to him, prefer an appeal to the appellate authority in such form and manner as may be prescribed.

(3) The appellate authority may, after giving an opportunity of being heard to the parties and to the competent authority, pass such order as deemed fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing, and the order of the appellate authority so passed shall be final, unless revised by the State Government under section 34.

(4) In discharging its functions, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 (Central Act V of 1908) of a civil court while deciding an appeal.

34. The State Government, either *suo moto,* or, on an application from any party aggrieved by any order within sixty days of the date of the communication to him of such order, may call for the examine the record of any proceedings disposed of by the competent authority, or the appellate authority, as the case may be, for the purpose of satisfying itself as the correctness, legality or propriety or any proceedings and of any order passed therein, and may pass such order in relation thereto as it may deem fit :

Provided that no order adverse to any person shall be passed without giving him an opportunity to show cause against such proposed order :

Provided further that no revision application will be entertained when an appeal has been or could have been filed against the order.

35. No civil court shall have any jurisdiction to entertain or decide any question relating to matters arising under this Act or the rules made thereunder and every order passed by the competent authority subject to appeal, or, revision, every order passed by the appellate authority subject to revision, and every order passed by the State Government in revision, shall be final and shall not be questioned in any court of law.

36.(1) Any promoter who, without reasonable cause, fails to comply with or contravenes the provisions of sections 3, 6, 9 (save as provided in sub-section (2) of this section) or

section 15 shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

(2) Any promoter who contravenes the provisions of section 9 by misusing any amount advanced or deposited with him for any purpose other than the purposes mentioned in section 9, shall, on conviction, be punished with imprisonment for a term which shall not be less than six months and which may extend to five years, or with fine which shall not be les than two thousand rupees and which may extend to ten thousand rupees or to the amount in respect of which the offence was committed, whichever is greater, or with both.

(3) Any promoter or estate agent who, without reasonable excuse, fails to comply with, or contravenes, any other provision of this Act or of any rule made thereunder, or does not pay the penalty imposed on him by the competent authority, shall, if no other penalty is expressly provided for the offence, be punished on conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure 1973 (Central Act of 1974), it shall be lawful for a Judicial Magistrate of the First Class to pass on any person convicted of any offence under this Act, a sentence of imprisonment or of fine or both as provided in the relevant section of this Act, in excess of his powers under section 27 of the said Code.

(5) The fine imposed under sub-sections (1), (2) or (3) may be recovered as an arrear of land revenue and out of the fine so recovered, the Judicial Magistrate may award such amount as he deems fit to the person from whom the advance or deposit was obtained by the promoter or the estate agent, as the case may be.

37.(1) If the person committing an offence under this Act is a company, the company as well as every person who at the time the offence was committed was in charge of, or, was, responsible to the company for the conduct of business by the company, 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 such punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he 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 with the consent or connivance of or is attributable to any negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) "company" means a body corporate and includes a development authority or public authority, a firm or other association of persons; and

(b) "director" in relation to firm means a partner in the firm, and in relation to a development authority or public authority means a person who takes decision on matters of policy in its affairs.

38.(1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the competent authority or any person authorised in this behalf by the competent authority.

(2) The competent authority may, either before or after the institution of the proceedings for prosecution, compound any offence punishable by or under this Act subject to such conditions and restrictions as may be prescribed.

(3) Where an offence has been compounded, the offender, if in custody, shall be released and no further proceedings shall be taken against him in respect of the offence compounded.

39.(1) Without prejudice to the provisions of this Act, the competent authority may, by notice, call upon any person who has committed a breach of the provisions of section 20 to show cause why the structure should not be demolished and if such person fails to show cause to the satisfaction of the competent authority within a period of fifteen days, the competent authority may pass an order requiring him to demolish the structure within sixty days from the date of the order.

(2) If the order made under sub-section (1) is not complied with, within the period specified therein the competent authority may itself take such measures as it may deem fit to give effect to the order and the cost of such measures shall, if not paid on demand being made to it, be recoverable from such person as arrears of land revenue.

40.(1) No suit prosecution or other legal proceedings shall lie against any officer or employee of the State Government or of the Competent Authority in respect of

anything which is, in good faith, done or intended to be done in pursuance of this Act or the rules made thereunder.

41. The State Government may, by notification, delegate all or any of its powers under this Act, except the power to make rules, to any officer subordinate to it subject to such restrictions and conditions as may be specified in such notification.

42.(1) This Act shall apply to apartments already in existence and agreements of sale of apartments or other properties made before the commencement of this Act.

(2) As respects apartments which on the commencement of this Act have already been constructed or converted, the provisions of sections 12, 13 and 15 shall apply with the following modifications, that is to say,-

(a) in section 12, of the date specified or agreed to has already passed at the commencement of this Act then the promoter shall give possession within three months from such commencement, and thereafter the promote shall be liable to demand to refund the amounts on the terms and conditions provided in the said section ;

(b) in section 13, in sub-section (1), the words and figure “after the agreement referred to in section 6 is registered” shall be read as if the words “after the commencement of this Act” had been substituted ; and

(c) in section 15, the words “within three months from the date of giving possession” shall be read as if the words “within three months from the commencement of this Act” had been substituted.

43.(1) The provisions of this Act shall take effect, notwithstanding anything to contrary contained in any other law for the time being in force or in any contract.

(2) The provisions of the Transfer of Property Act, 1882 (Central Act No. IV of 1882) shall, in so far as they are not inconsistent with the provisions of this Act, apply to every apartment together with the percentage of undivided interest in the common areas and facilities apurtenant to such apartment, as they apply in relation to any immovable property.

44.(1) Subject to the provisions of section 32, nothing in this Act shall apply if the promoter is,-

(a) a local authority or statutory body constituted for the development of land or housing ; or

(b) a company or a body created for development of land or housing or promotion of industry wholly owned and controlled by the State Government or the Central Government ;

(2) If the State Government is of the opinion that, the operation of any of the provisions of this Act, causes undue hardship, or circumstances exist which render it expedient to do so, it may exempt, by a general or special order, any class of persons or arrears from all or any of the provisions of this Act, subject to such terms and conditions as it may impose.

45.(1) The State Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(a) the particulars as respects the design and the materials to be used in the construction of the building and the other information and documents to be disclosed, the manner in which disclosure is to be made and the documents of which true copies shall be given by the promoter under clauses (f), (m) and (n) of sub-section (2) of section 3:

(b) the other matters to be disclosed in an advertisement or prospectus under sub-section (2) of section 4 ;

(c) the for of the application, the information to be attached with the application and the fee to be paid for the grant of permission under sub-section (1) of section 5 ;

(d) the authority to be prescribed for giving opinion to the competent authority under sub-section (2) of section 5 ;

(e) the form of licence to be issued and the agreement to be entered into under sub-section (3) of section 5 ;

(f) the fee to be paid for renewal of licence under sub-section (4) of section 5 ;

(g) the criteria of the economically weaker sections of society and the manner of reserving residential apartments or plots for weaker sections of society and the conditions subject to which the reservation is to be made under sub-section (2) of section 3 and under sub-section (9) of section 5 ;

(h) the manner of recovering charges under sub-section (13) of section 5 ;

(i) the form for the agreement of sale and the particulars to be contained in and the documents or copies thereof to be attached to such agreement under sub-section (1) of section 6 ;

(j) the rate of interest under sub-section (2) of section 6 ;

(k) the fee to be paid under sub-section (2) of section 11 ;

(l) the particulars to be included in respect of conveyance deed of apartment under section 15 ;

(m) the form of application under sub-section (1) of section 16 ;

(n) the matters to be prescribed under section 20 ;

(o) the form in which an application for registration of promoters and estate agents should be made and the fee for such application, form for maintenance of registers and the form of registration certificate under sub-section (2) of section 21 ;

(p) the qualifications for a promoter and for an estate agent and the amount and manner of security to be furnished under section 22 ;

(q) the fee for renewal of registration under section 23 ;

(r) the form and manner of maintaining accounts, registers and records by a promoter or estate agent under sub-section (1) and maintenance of register by the competent authority under sub-section (2) of section 28 ;

(s) the manner in which the accounts should be audited and certified by a chartered accountant under section 29 ;

(t) the periodical returns which a promoter or estate agent has to submit to the competent authority under section 30 ;

(u) the purposes to be prescribed under sub-section (4) of section 32 ;

(v) form and manner in which an appeal should be preferred to the appellate authority under sub-section (2) of section 33; and

(w) any other matter which has to be or may be prescribed by rules.

(3) Every rule made under this section shall be laid as soon as may be, after it is made, before the House of the State Legislature, while it is in session for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified for or be no effect, as the case may be; so however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

46. (1) The Punjab Regulation of Colonies Act, 1975 (Punjab Act No. 10 of 1975) is hereby repealed.

(2) The repealing of the Act under sub-section (1) shall not affect.

(i) the previous operation of the Act so repealed or anything duly done or suffered thereunder ;

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed ;

(iii) any penalty forfeiture or punishment incurred in respect of any offence committed against the Act so repealed ;

(iv) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation , liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced or any such penalty, forfeiture and punishment may be imposed as if the aforesaid Act had not been repealed.

(3) Notwithstanding such repeal, anything done or any action taken under the Act so repealed including any notification, order, notice issued, application made, or permission granted, which is not inconsistent with the provisions of this Act shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act was in force at the time such thing was done or action was taken and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act.

STATEMENT OF OBJECTS AND REASONS

For some time past the problem of controlling the activities of the private colonisers engaged in the construction of apartments and sale of plots has been engaging the attention of the State Government.

Some of the private colonisers are operating solely with the motive of profits with scant regard to the interest and rights of the individual buyers of plots/flats. In order to check, control and regulate effectively the activities of such private colonisers and protect the interest of the consumers, the Government felt the need to formulate of law. The National Housing Policy also stipulates a larger role for the private initiative in adding to the Housing stock and serviced land for housing which also needs a progressive law which encourages construction of houses/development of plots by the private parties and fully protects the interests of the buyers of plots/flats.

The Government of India have also prepared and circulated a Model Draft Bill, for the guidance of the State Government to enact such a legislation speedly.

Hence this Bill.

BAL MUKAND SHARMA,
Housing and Urban Dev. Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 45 of the Punjab Apartment and Property Regulation Bill, 1995 empowers the State Government to make rules for carrying out the purposes of the Bill. The powers sought are necessary for the proper implementation of the provisions of the Bill and are normal in character.

CHANDIGARH
The 13th March, 1995.

G.L. KAUL,
Secretary.

N.B. - The above Bill was published in the *Punjab Government Gazette* (Extraordinary), dated the 13th March, 1995 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).