
KARNATAKA OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) RULES, 1975

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KARNATAKA OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) RULES, 1975

Whereas, the draft of the Karnataka Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Rules, 1972 which the Government of Karnataka proposes to make in exercise of the powers conferred by clauses of sub-section (1) of Section 16 of the Karnataka Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1972 (Karnataka Act 16 of 1973) was published in Notification No. DPC 334 DHE 73(1), dated 23rd October, 1974 inviting objections and suggestions from all the persons likely to be affected thereby on or before 25th November, 1974; And whereas, the said Gazette was made available to the public on 23rd October, 1974; And whereas, no objections or suggestions have been received on the said draft by the State Government; Now, therefore, in exercise of the powers conferred by Section 16 of the Karnataka Ownership Flats (Regulation of Promotion of Construction, Sale, Management and Transfer) Act, 1972 (Karnataka Act 16 of 1973), the Government of Karnataka hereby makes the following rules,

namely:

1. Short title and commencement :-

(i) These rules may be called the Karnataka Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Rules, 1975¹ .

(ii) They shall come into force at once.

1. Read for the figures "1974" by S.O. 887, dated 19-3-1975

2. Definitions :-

In these rules, unless the context otherwise requires.

(a) "Act" means the KARNATAKA OWNERSHIP FLATS REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) ACT, 1972 (Karnataka Act 16 of 1973).

(b) "Form" means a form appended to these rules.

(c) "Section" means a section of the Act.

3. Manner of making disclosure :-

(1) A promoter for the purposes of making disclosure of any document referred to in Section 3 or prescribed thereunder shall produce the original of such document before the person intending to take or taking one or more flats or apartments. Such person may ask the promoter all relevant questions for seeking further information or clarification in respect of any document or matter required to be disclosed, produced or furnished by or under the provisions of the Act; and the promoter shall be legally bound to answer all such questions to the best of his knowledge and belief.

(2) The promoter while making disclosure of the outgoings as required by clause (i) of sub-section (2) of Section 3 shall state the basis on which any estimated figures or other information is given.

4. True copies of certain documents to be given :-

A promoter shall, on demand and payment of a reasonable charge therefor, give to any person intending to take or taking one or more flats or apartments true copies of the following documents, namely:

(a) all documents of title relating to the land on which the flats or apartments are constructed, or to be constructed which are in the promoter's possession or power;

(b) the certificate by an Advocate referred to in clause (a) of sub-section (2) of Section 3 ;

(c) all documents relating to encumbrances (if any) on such land including any right, title, interest or claim of any party, in or over such land;

(d) the plans and specification of the building built or to be built on the land referred to in clause (c) of sub-section (2) of Section 3 ;

(e) a list of fixtures, fittings and amenities (including the provision for one or more lifts) provided or to be provided for the flat or apartment;

(f) the list referred to in clause (g) of sub-section (2) of Section 3 ;

(g) a list of all outgoings referred to in clause (i) of sub-section (2) of Section 3 and the basis on which any estimated figures or other information is given to the person intending to take or taking the flat.

5. Particulars to be contained in agreement for sale :-

The agreement for sale referred to in Section 4 shall, inter alia, contain the following particulars, namely.

(a) if the building is to be constructed, the liability of the promoter to construct it according to the plans and specification approved by the local authority where such approval is required under any law for the time being in force;

(b) the date by which the possession of the flat or apartment is to be handed over to the purchaser;

(c) the price to be paid by the flat or apartment purchaser and the intervals at which instalment thereof may be paid;

(d) the precise nature of the organisation to be constituted of the persons who have taken or are to take the flats or apartments;

(e) the nature, extent and description of the common areas and facilities;

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

(g) percentage of undivided interest in the common areas and facilities appertaining to the apartment agreed to be sold;

(h) statement of the use for which the apartment is intended and restriction on its use, if any.

Explanation.

(1) Clauses (e) to (h) shall apply only in relation to the sale of apartments and the expressions used in those clauses shall have the meanings respectively assigned to them in the Karnataka Apartment Ownership Act, 1972 .

(2) The percentage of undivided interest of each apartment owner in common areas and facilities shall be computed in the manner provided in Section 6 of that Act.

6. Documents copies whereof to be attached to agreement :-

The promoter shall attach to the agreement referred to in Section 4 copies of the following documents, namely.

(a) the certificate by an Advocate under clause (a) of sub-section (2) of Section 3 ;

(b) the plans and specifications of the flat to be sold.

7. Manner of making disclosure before the officer appointed under Section 3 :-

(1) For the purpose of making disclosure of all the transactions in respect of the account referred to in Section 5 or for the purpose of making disclosure of information and documents in the manner prescribed in these rules, a promoter shall produce before the officer appointed under the said section, the following documents in relation to such account within such time as that officer may fix in mat behalf, namely.

1. The Cash Book;
2. The General Ledger;
3. The Personal Ledger;
4. The Nominal Accounts;
5. The receipts of advances and deposits;
6. The vouchers of expenditure;
7. Bank pass book;

8. The Register of flat purchasers or apartment takers;
9. The Register of flats or apartments;
10. The statement indicating Receipts and Disbursement General.

(2) The Register of flat purchasers or apartment takers and the Register of flats or apartment shall be in Forms I and II respectively, and the statement at SI. Nos. 10 and 11 in sub-rule (1) shall be in Form III and Form IV, respectively. The other documents referred to in sub-rule (1) may be maintained according to the trade practice.

8. Fees to be paid under Section 7(4) :-

The fee to be paid for making a reference under sub-section (4) of Section 7 shall be rupees one hundred.

9. Period for submission of application for Registration of Co-operative Society or Company of flat purchasers :-

Where a Co-operative Society or a Company of persons taking the flats is to be constituted, the promoter shall submit an application to the Registrar for registration of the Co-operative Society or the company, as the case may be, within four months from the date on which the minimum number of persons required to form such organisation have taken flats. Where the apartment takers propose to submit the apartments to the provisions of the Karnataka Apartment Ownership Act, 1972 by executing Declaration and Deeds of Apartment as required by that Act, the Promoter shall inform the Registrar as defined in the Karnataka Co-operative Societies Act, 1959 as soon as possible after the date on which all the apartment owners (being not less than five) have executed such Declarations and Deeds of Apartment.

10. Period for conveyance of title of promotion of organisation of flat purchasers :-

If no period for conveying the title of the promoter is the organisation of the flat purchasers or the apartment owners is agreed upon, the promoter shall (subject to his right to dispose of the remaining flats, if any, execute the conveyance within four months from the date on which the Co-operative Society or the company is registered or as the case may be, the association of flat takers or apartment owners is duly constituted.