

## To Secure Payment of External Developmental Charges, the Haryana Real Estate Regulatory Authority, Gurugram has passed the Haryana Real Estate Regulatory Authority, Gurugram (Auto Credit of 10% Receipts from the Separate RERA Account Maintained under Section 4(2)(I)(D)), Regulations, 2020

The Haryana Real Estate Regulatory Authority, Gurugram ("the Authority"), in exercise of the powers conferred on it under Section 85 of the Real Estate (Regulation and Development) Act, 2016 ("the Act"), framed the Haryana Real Estate Regulatory Authority, Gurugram, (Auto Credit of 10 % of receipts from Separate RERA Account Maintained under Section 4(2)(I)(D)) Regulations, 2020 ("Regulations, 2020").

### Object, Commencement, Extent and Important Definitions of the Regulations, 2020:

- Object: The object of the Regulations, 2020 are to further strengthen and stream line the mechanism pertaining to recovery of external development charges (EDC), by exploring all available existing statutory mechanisms.
- The present option has been emerged in order to ensure the auto-debit of funds from the 70 % realizations account maintained under Section 4(2)(I)(D) of the Act, and auto-credit of EDC head of state treasury against license obtained from the Director Town & Country Planning Department, Haryana (DTCP), by such colonizers who have been granted license under the Haryana Development and Regulation of Urban Areas Act, 1975 ("Act of 1975"), and have got registration of project under the Act and the Haryana Real Estate (Regulation and Development) Rules, 2017 ("Rules, 2017").
- Applicability: The Regulations, 2020 shall apply to all registered projects falling within the jurisdiction of the Authority as notified by the State Government of Haryana vide its Notification No. 1/92/2017-1 TCP dated 14.12.2017 which comprises entire area of Gurugram district.
- The said Regulations, 2020 came into force on 16.09.2020 as notified by the Haryana Government vide its gazette notification No. 19/RERA GGM Regulations 2020.
- Definition of "External Development Works": The term External Development Works, is as defined under Section 2(w) of the Act: "includes roads and road systems landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside a project for its benefit as may be provided under the local laws"; also, the term External Development Works

is also as defined under Section 2(g) of the Act of 1975: which "shall include any or all infrastructure development works like water supply, sewerage, drains, provisions of treatment and disposal of sewage, sullage and storm water, roads, electrical works, solid waste management and disposal, slaughter houses, colleges, hospitals, stadium/sports complex, fire stations, grid sub-stations etc. and/ or any other work which the Director may specify to be executed in the periphery of or outside colony/ area for the benefit of the colony/area".

- Definition of "Internal Development Works": The term Internal Development Works, is as defined under Section 2(zb) of the Act: "means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as education health and other public amenities or any other work in a project for its benefits, as per the sanctioned plans"; also, the term Internal Development Works is also as defined under Section 2(i) of the Act of 1975: which "means (i) metaling of roads and paving of footpaths; (ii) turfing and plantation with trees of open spaces; (iii) street lighting; (iv) adequate and wholesome water supply; (v) sewers and drains both for storm and sullage water and necessary provision for their treatment and disposal; and (vi) any other work that the Director may think necessary in the interest of proper development of a colony".
- Power of the Appropriate Government to Issue Directions to the Authority and Obtain Reports under Section 83(1) of the Act:
- The said Regulations, 2020 were issued keeping in view the Directions issued by the Principal Secretary to the Government of Haryana, DTCP vide its Memo No. Misc-BG(EDC)-202/2020/3676, in exercise of the powers conferred under Section 83 of the Act and Section 9A of the Act of 1975.
- The above said directions provided that, in future, the following clauses are to be added to the bilateral agreements to be entered into with the colonizers at the time of grant of licenses under the Act of 1975:

  - Against each license, the colonizer shall integrate its bank account in which 70 % allottee receipts are credited under Section 4(2)(I)(D) of the Act, along with the online applications/ payment gateway of the department, in order to ensure that 10 % of the total receipts from each payment made by an allottee is automatically deducted and gets credited to the EDC head in state treasury.
  - 10 % of the total receipts from each payment made by an allottee, which is received by the department shall get automatically credited on the date of receipt

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- in government treasury against EDC dues of the concerned license of the colonizer.
- c. Such 10 % deduction shall continue to operate until the total EDC dues get recovered from the colonizer against such license.
  - d. The said implementation mechanism shall have no meaning on the EDC instalment schedule conveyed to the colonizer. The colonizer shall continue to supplement such automatic EDC deductions with payments from its funds to ensure that the EDC instalments that are due for payment get paid as per the prescribed schedule.
- ≡ The Authority shall ensure the implementation of abovesaid provisions through issuance of necessary directives, obtaining periodic reports, etc., and also ensure regular monitoring of the said mechanism to ascertain the implementation of the same in letter and in spirit.
  - ≡ Further, as there is no provision for auto debit of funds from the 70 % realizations account maintained under Section 4(2)(I)(D) of the Act, and in the Haryana Real Estate Regulatory Authority, Gurugram Bank Accounts for the Registered Projects Directions, 2019, accordingly, the Regulations, 2020 are issued in order to implement the said directions issued by the Government of Haryana, DTCP vide its Memo No. Misc – BG(EDC)-202/2020/3676.
  - ≡ **Directions to the Builder/ Promoter for Opening Bank Accounts as per the provisions of the Act:**
  - ≡ The promoters are to ensure compliance of the Haryana Real Estate Regulatory Authority, Gurugram Bank Accounts for the Registered Projects Directions, 2019, issued vide Memo No. 1/RERA GGM Directions, 2019 dated 10.05.2019.

- ❑ **Authorization to the Bank to Debit 10 % of Total Receipts from each Payment made by an Allottee and kept in a separate RERA account maintained under Section 4 (2)(I)(D) of the Act and Auto-Credit into EDC head of State Treasury against Real Estate Project:**
- ≡ Against each license, the colonizer shall integrate its separate RERA account in which 70 % allottee receipts are credited under Section 4(2)(I)(D) of the Act, along with the online applications/ payment gateway of the department, in order to ensure that 10 % of the total receipts from each payment made by an allottee is automatically deducted and gets credited to the EDC head in state treasury. Such 10 % deduction shall continue to operate until the total EDC dues get recovered from the colonizer against such license.
- ❑ **Monitoring and Implementation:**
- ≡ The promoter shall give statement of such credit to made to the EDC head in state treasury in quarterly progress report, that is to be submitted to the Authority within 15 (fifteen) days of the end of each quarter.
- ≡ The promoter shall also give statement of such credit to made to the EDC head in state treasury in the Annual Report that is to be submitted in compliance with the provisions of Section 4(2)(I)(D) of the Act.
- ≡ The promoter shall also give a statement of EDC indicating the total EDC payable for the project, EDC payment made until the end of the quarter and details of instalment paid and to be paid till the end of the quarter.
- ≡ The Accounts Officer of the Authority in consultation with the Accounts Executive monitoring reports submitted in compliance with Section 4(2)(I)(D) of the Act shall ensure the promoters comply with the said Regulations, 2020. Further, in an event of any deviation or non-compliance, the same shall be reported to the Authority for taking coercive action(s) and/ or initiating penal proceedings against the defaulters.

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