

## MANNER OF FILING COMPLAINTS

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The Real Estate (Regulation and Development) Act 2016 was enacted by Government of India and as per the powers conferred under the Act, Government of Kerala established Kerala Real Estate Regulatory Authority (K-RERA) for regulation and promotion of real estate sector in the State of Kerala. The Real Estate (Regulation and Development) Act 2016 is a step towards reforming the real estate sector in the country encouraging greater transparency, citizen centricity, accountability and financial discipline so as to protect the interest of the consumers in this industry.

**1. Section 31** of the Act which provides right to any aggrieved person for approaching the Authority with his/her grievances regarding violation of the provisions of the Act came into force on **01.05.2016**. As per Section 31 of the Act, *“any aggrieved person can file a complaint with the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provisions of this Act or the Rules and regulations made thereunder against any Promoter, Allottee or Real Estate Agent, as the case may be.”*

Explanation: - For the purpose of this Section, **“Person”** shall include the association of allottees or any voluntary association registered under any law for the time being in force.

**2.** Any claim for compensation under **Section 12, 14, 18 and 19** of the Act shall be filed before the Adjudicating Officer and all other complaints regarding violation of any provisions of the Act shall be filed before the Authority.

**3.** As per the Act, the Complainant may either appear in person or authorize one more Chartered Accountants or Company Secretaries or Cost Accountants or Legal Practitioners or any of its officers to present

his/its case before the Authority.

4. The Authority shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of i) the discovery and production of books of accounts and other documents, at such place and at such time as may be specified by the Authority, ii) summoning and enforcing the attendance of persons and examining them on oath, iii) issuing commissions for the examination of witnesses or documents and iv) any other matter prescribed by the Rules.

5. The pleadings before the Authority shall be submitted in a booklet form in the proper manner. None of the papers shall be folded.

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## **I. Complaints before the Authority**

1. Any aggrieved person can file a complaint with the Authority, under Section 31 of the Act read with Rule 36, in **Form M** annexed with the Kerala Real Estate (Regulation & Development) Rules, 2018 which shall be accompanied by a fee of **Rs. 1,000/-**. The payment of fees shall be in the form of Demand Draft drawn on a Scheduled Bank payable at Thiruvananthapuram in favour of the “**Kerala Real Estate Regulatory Authority**”. Each and every column/para should be neatly typed using additional papers/sheets wherever necessary.
2. The Complainant shall submit the complaint with sufficient number of copies required to be sent to the respondents along with supporting documents to the Authority by registered post or directly in person in the office of the Authority.

3. The complaint shall be presented either in person by the applicant himself or through an Advocate or an Authorized Representative as contemplated under Section 56 of the Act, and if through an Advocate, necessary **Vakalath** duly attested with enrollment number and court fee stamp, as well as Advocate Welfare Fund, stampas prescribed in the Civil Court Procedure, as the case, shall be filed. The e-mail id and contact number of the complainants as well as their advocate/authorized representative shall be furnished with the complaint.
4. An authorized representative other than Advocate shall furnish **Memo of Authorization in Form 7** (annexed to the Regulations) containing the address of the representative with all particulars of e-mail address or mobile number for proper communication.
5. The party who has engaged a legal practitioner or any other authorized representative to appear for him before the Authority/the Adjudicating Officer shall not be entitled to be heard in person unless permitted by the Authority.
6. When a number of complaints are submitted to the Authority based on similar facts and seeking the same or similar relief against the same promoter in the same project, the Authority shall ordinarily club all such complaints together and pass a common order.
7. The designated officer of the Authority may, at any time, call upon the party to produce such further materials as and when he is directed by the Authority in this regard.
8. After getting notice of the complaint, the Respondents shall appear for the hearing along with their Counter Statement, after serving copies of the same to the opposite party. <sup>3</sup> All the parties shall produce copies of

documents, if any, to support their case/claim/contentions, along with the complaint/counter statement itself.

## **II. Claims before the Adjudicating Officer:**

1. As per Rule 37 of Kerala Real Estate (Regulation & Development) Rules, 2018 the aggrieved person can file claims for compensation as provided under **Section 12, 14, 18 and 19** of the Act, before the Adjudicating Officer.
2. If the claims are more than one but based on similar facts and praying for the same relief sought against the same promoter, all those claims shall be clubbed and disposed of through a common order.
3. Any aggrieved person may file a claim for compensation in the prescribed **FORM-N** (additional sheets can be used) with adequate number of copies to be served upon each respondent with the Adjudicating Officer for compensation under Section 12, 14, 18 and 19 of the Act read with Rule 37 and Regulations made thereunder, save as those provided to be adjudicated by the Authority, which shall be accompanied by a fee of **Rs. 1,000/-** remitted in the form of a demand draft drawn on a Scheduled Bank payable at Thiruvananthapuram in favour of the **“Kerala Real Estate Regulatory Authority”**. The aggrieved person has to submit his application along with supporting documents by registered post or in person in the office of the Authority.
4. The claim shall be presented either in person by the Claimant himself or through an authorized representative as contemplated under Section 56 of the Act. Necessary vakalath or Memo of authorization duly attested with affixture of applicable court fee stamp as well as Advocate

Welfare Fund stamp, as the case may be, on it shall be filed. And such authorization shall contain the address of the representative with particulars such as Enrolment Number or Registration Number as well as e-mail id & mobile Number for proper communication. The original of such letter of authorization shall also be produced for verification at the time of filing.

5. The party who has engaged a legal practitioner or any other authorized representative to appear for him before the Authority/the Adjudicating Officer shall not be entitled to be heard in person unless permitted by the Authority.