

HOUSING DEVELOPMENT (CONTROL AND LICENSING) REGULATIONS 1989

(Incorporating latest amendment – via P.U. (A) 106/2015)

Effective 1 JULY 2015

	Old	New (changes tracked)
1	<p>"Appropriate Authority" means any authority for the time being authorised under any written law in force in West Malaysia to approve building plans, subdivision of land, subdivision of buildings, the issue of documents of title and to enforce building by-laws or regulations and includes any company licensed to provide water, electricity, telephone, sewerage services and other related services.</p>	<p>"Appropriate Authority" means any authority for the time being authorised under any written law in force in PeninsularWest Malaysia to approve building plans, <u>building plans,</u> subdivision of land, subdivision of buildings, <u>building plans,</u> the issuance of documents of title and to enforce <u>any other laws building by laws or regulations</u> and includes any <u>corporation, company or private agency licensed by the Appropriate Authority</u> company licensed to provide water, electricity, tele<u>communication</u>phone, sewerage services and other related services. [1]</p>
2	-none-	<p><u>New definition:-</u></p> <p>"Land Parcel" has the same meaning assigned to it in the Strata Titles Act 1985;</p> <p><i><u>which means "a unit delineated within the lot in which is comprised a building of not more than four storeys which is held under a strata title; which may have shared basement, comprises accessory parcels and common property."</u></i> [2]</p>
3	<p>4. Renewal of a housing developer's licence.</p> <p>(1) An application for the renewal of a housing developer's licence may be made not later than sixty (60) days before the date of</p>	<p>4. Renewal of a housing developer's licence.</p> <p>(1) An application for the renewal of a housing developer's licence shall<u>may</u> be made not later than sixty (60) fourteen (14) days [3]</p>

¹ JFY: no major change: a mere re-wording only

² JFY: NOTE: this definition has also just been introduced into the amended **Strata Titles Act 2015 w.e.f 1 June 2015**. To discuss with land surveyor/planners on the effects/significance of this new definition.

³ JFY: the Developer is now given a longer time period (ie. 46 days more) to apply for the renewal of its license.

	expiry and the Controller may grant a renewal of the licence with or without attaching conditions thereto or refuse to grant a renewal of such license.	before the date of expiry and the Controller may grant a renewal of the licence with or without attaching conditions thereto or refuse to grant a renewal of such license.
4	-none-	<u>New subregulation 4(1A):</u> 4(1A) An application for renewal under subregulation (1) shall be made by a licensed housing developer until the certificate of completion and compliance is given or granted. ^[4]
5	(1A) “The fee payable upon every application for the renewal of a licence shall be fifty ringgit;”	Renumbered as (1B) “The fee payable upon every application for the renewal of a licence shall be fifty ringgit;” ^[5]
6	5. Advertisement and sale permit. (1) No advertisement or sale shall be made by any licensed housing developer without an advertisement and sale permit having first been obtained from the Controller.	5. Advertisement and sale permit. (1) No advertisement or sale shall be made by any licensed housing developer ^[6] without an advertisement and sale permit having first been obtained from the Controller.
7	5(3) Any misleading statement, false representation or description of the particulars or information required under paragraph (2) of this regulation shall be an offence under these Regulations.	5(3) Any misleading statement, false representation or description of the particulars or information required under paragraph (2) of this regulation <u>subregulation (2) including the difference in price of property</u> shall be an offence under these Regulations.
8	-none-	<u>New subregulation 8(1A):</u> ^[7] (1A) Any advertisement made by any licensed housing developer shall not contain:

⁴ JFY: this means that the Developer will have to keep renewing its license until the date when the CCC is obtained.

⁵ JFY: no change in wordings; mere re-numbering

⁶ JFY: this means that ALL Developers, regardless whether licensed or not will have to now comply with this rule.

⁷ JFY: please pay special attention to the contents of all your advertisements wef **1 JULY 2015**

		<p>(a) offer of free legal fees;</p> <p>(b) projected monetary return gains and rental income;</p> <p>(c) claim of panoramic view;</p> <p>(d) travelling time from housing projects to popular destinations; or</p> <p>(e) any particulars to which a housing developer cannot genuinely lay proper claim.</p>
9	<p>11. Contract of sale</p> <p>(2) No housing developer shall collect any payment by whatever name called except as prescribed by the contract of sale.</p>	<p>11. Contract of sale</p> <p>(2) No housing developer person including parties acting as stakeholders ^[8] shall collect any payment by whatever name called except as prescribed by the contract of sale.^[9]</p>
10	<p>11A. Period to execute instrument of transfer</p> <p>A housing developer shall, in respect of the sale of housing accommodation to which no separate title has been issued, execute the instrument of title within twenty one days</p>	<p>Deleted. (related to this, please see new Schedule H provisions eg. clause 12, clause 27 and clause 28).</p>

⁸ JFY: this means that now, even the lawyers /real estate agents are NOT allowed to continue the practice of pre bookings of units before the issuance of DL/AP by way of “registration/pre-bookings” exercises.

⁹ JFY: the only payments prescribed under the contract of sale are as set out in the **Third Schedule** ie:-
- the very first payment is the **10%** payable upon signing of the sale and purchase agreement; and
- the remaining **90%** to be paid progressively as stated in the Third Schedule.

In short, collection of any payment by a housing developer before the signing of the sale and purchase agreement is an offence; and it does not matter what the Developer calls it. Penalty for committing this offence is set out in **Regulation 13** (below).

Related to this, if subsequently (ie. 6 months after the signing of the sale and purchase agreements), the Developer finds itself in some financial difficulties and is unable to proceed with the project, any purchaser who has signed the sale and purchase agreement with the Developer can individually/separately on its own, invoke the newly amended **s8A of the Housing Development (Control and Licensing Act) 1966 (“the Principal Act”)** and terminate his agreement. **However**, no similar right is accorded to the Developer to terminate the signed agreements: please see our Table of the amendments made to the Principal Act for a further discussion on this.

NOTE: for purchasers who entered into SPAs **before 1 JUNE 2015**, the old s8A will apply (ie. the Developer’s consent as well as **75%** of all purchasers who signed the SPAs have to consent to the termination to the agreements).

	from the date of the separate title is subsequently issued and received by the housing developer from the Appropriate Authority and the housing developer shall forward such title to the purchaser who shall execute the instrument of transfer within twenty one days from the receipt of the same from the housing developer.	
11	<p>13. Penalties.</p> <p>(1) Any person who contravenes any of the provisions of these Regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand ringgit or to a term of imprisonment not exceeding five years or to both.</p>	<p>13. Penalties.</p> <p>(1) Any person who contravenes any of the provisions of these Regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fiftytwenty thousand ringgit or to a term of imprisonment not exceeding five years or to both.^[10]</p>
12	<p><u>Others:</u></p> <p>Schedule G Schedule H Schedule I Schedule J</p>	<p>To use the newly amended schedules for new purchases on and after 1 JULY 2015:-</p> <p>Schedule G Schedule H Schedule I Schedule J</p>

¹⁰ JFY: even those persons who knowingly and willfully aid, abet, counsel, procure or command the commission of such an offence shall be liable to be punished similarly.