THE CONSUMER PROTECTION (AMENDMENT) ACT, 2002
(62 of 2002) [17th December, 2002]

An Act further to amend the Consumer Protection Act, 1986.

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows :-

1. Short title and commencement. - (1) This Act may be called the Consumer Protection (Amendment) Act, 2002.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2. - In the Consumer Protection Act, 1986 (68 of 1986) (hereinafter referred to as the principal Act), in section 2, in sub-section (1),-

(a) in clause (b), after sub-clause (iv), the following sub-clause shall be inserted, namely:-

"(v) in case of death of a consumer, his legal heir or representative.";

(b) in clause (c),-

(i) in sub-clause (i), for the words" any trader", the words" any trader or service provider" shall be substituted; (ii) for sub-clauses (iv) and (v), the following sub-clauses shall be sub situated, namely:-

"(iv) a trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price-

(a) fixed by or under any law for the time being in force;

(b) displayed on the goods or any package containing such goods;

(c) displayed on the price list exhibited by him by or under any law for the time being in force;

(d) agreed between the parties; 

(v) goods which will be hazardous to life and safety when used are being offered for sale to the public,-

(a) in contravention of any standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;

(b) if the trader could have known with due diligence that the goods so offered are unsafe to the public;

(vi) services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety,";

(c) in clause (d),-

(i) in sub-clause (ii), the following words shall be inserted at the end, namely:-

"but does not include a person who avails of such services for any commercial purpose";

(ii) for the Explanation, the following Explanation shall be substituted, namely:-

"Explanation. - For the purposes of this clause, "commercial purpose" does not
include use by a person of goods bought and used by him exclusively for the purposes of earning his livelihood by means of self-employment;",
(d) for clause (j), the following clause shall be substituted, namely: -
"(j) "manufacturer" means a person who-
(i) makes or manufactures any goods or parts thereof; or
(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others; or
(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer;"
(e) for clause (nn), the following clauses shall be substituted, namely: -
"(nn) "regulation" means the regulations made by the National Commission under this Act;"

(nnn) "restrictive trade practice" means a trade practice which tends to bring about manipulation of price or its conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include-
(a) delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;
(b) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;"
(f) in clause (o), for the words, "users and includes the provision of", the words "users and includes, but not limited to, the provision of" shall be substituted;
(g) after clause (o), the following clause shall be inserted, namely: -
"(oo) "spurious goods and services" mean such goods and services which are claimed to be genuine but they are actually not so;"
(h) in clause (r), -
(i) after sub-clause (3), the following sub-clause shall be inserted, namely: -
"(3-A) Withholding from the participants of any scheme offering gifts, prizes or other items free of charge, on its closure the information about final results of the scheme.
Explanation. - For the purposes of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time published, prominently in the same newspapers in which the scheme was originally advertised;"
(ii) after sub-clause (5), the following sub-clause shall be inserted, namely: -
"(6) manufacture of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services."
3. Amendment of section 4. - In section 4 of the principal Act, in sub-section (1), for the words "The Central Government may", the words "The Central Government shall" shall be substituted.
4. Amendment of section 7. - In section 7 of the principal Act,-
(a) in sub-section (1), in the opening portion, for the words "The State Government may", the words "The State Government shall" shall be substituted;
(b) in sub-section (2), after clause (b), the following clause shall be inserted, namely: -
"(c) such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government".

5. Insertion of new sections 8A and 8B. - After section 8 of the principal Act, the following sections shall be inserted, namely:-

"8-A. The District Consumer Protection Council. - (1) The State Government shall establish for every district, by notification a council to be known as the District Consumer Protection Council with effect from such date as it may specify in such notification.

(2) The District Consumer Protection Council (hereinafter referred to as the District Council) shall consist of the following members, namely:-

(a) the Collector of the district (by whatever name called), who shall be its Chairman; and

(b) such number of other official and non-official members representing such interests as may be prescribed by the State Government.

(3) The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The District Council shall meet as such time and place within the district as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

8-B. Object of the District Council - The objects of every District Council shall be to promote and protect within the district the rights of the consumers laid down in clauses (a) to (f) section 6."

6. Amendment of section 10. - In section 10 of the principal Act, -

(a) in sub-section (1), for clause (b), the following clause shall be substituted, namely:-

"(b) two other members one of whom shall be a woman, who shall have the following qualifications, namely:-

(i) be not less than thirty-five years of age,

(ii) possess a bachelor's degree from a recognised university,

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration;

Provided that a person shall be disqualified for appointment as a member, if he

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the State Government;"

(b) in sub-section (1-A), the following proviso shall be inserted, namely:-

"Provided that where the President of the State Commission is, by reason of
absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman."

(c) for sub-section (2), the following sub-section shall be substituted, namely:-(2) Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier.

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-five years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is also made on the basis of the recommendation of the Selection Committee:

Provided further that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1-A) in place of the person who has resigned:

Provided also that a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or member, as the case may be, till the completion of his term.

(d) in sub-section (3), the following proviso shall be inserted, namely:-

"Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the District Forum."

7. Amendment of section 11. - In section 11 of the principal Act, in sub-section (1), for the words "does not exceed rupees five lakhs", the words "does not exceed rupees twenty lakhs" shall be substituted.

8. Substitution of new section for section 12. - For section 12 of the principal Act, the following section shall be substituted, namely:-

"12. Manner in which complaint shall be made. - (1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by:

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general.

(2) Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed."
On receipt of a complaint made under sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected:

Provided that a complaint shall not be rejected under this sub-section unless an opportunity of being heard has been given to the complaint:

Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

Where a complaint is allowed to be proceeded with under sub-section (3), the District Forum may proceed with the complaint in the manner provided under this Act:

Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.

Explanation. - For the purposes of this section, "recognised consumer association" means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force.

9. Amendment of section 13. - In section 13 of the principal Act, -

(a) in the marginal heading for the words "Procedure on receipt of complaint", the words "Procedure on admission of complaint" shall be substituted;

(b) in sub-section (1), -

(i) in the opening portion, for the words "on receipt of a complaint", the words "on admission of a complaint" shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely:-

"(a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;"

(c) in sub-section (2),

(i) in the opening portion, for the words "complaint received", the words "complaints admitted" shall be substituted;

(ii) in clause (b), in sub-clause (ii), for the words "on the basis of evidence", the words "ex parte on the basis of evidence" shall be substituted;

(iii) after clause (b), the following clause shall be inserted, namely:-

"(c) where the complainant fails to appear on the date of hearing before the District Forum, the District Forum may either dismiss the complaint for default or decide it on merits;"

(d) after sub-section (3), the following sub-sections shall be inserted, namely:-

"(3-A) Every complaint shall be heard as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months, if it requires analysis or testing of commodities:

Provided that no adjournment shall be ordinarily granted by the District Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum:

Provided further that the District Forum shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act:
Provided also that in the event of a complaint being disposed of after the period so specified, the District Forum shall record in writing, the reasons for the same at the time of disposing of the said complaint.

(3-B) Where during the pendency of any proceeding before the District Forum, it appears to it necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case;"

(e) after sub-section (6), the following sub-section shall be inserted, namely:-

"(7) In the event of death of a complainant who is a consumer or of the opposite party against whom the complaint has been filed, the provisions of Order XXII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to the plaintiff and the defendant shall be construed as reference to a complainant or the opposite party, as the case may be."

10. Amendment of section 14. - In section 14 of the principal Act, -

(a) in sub-section (1),-

(i) in clause (d), the following proviso shall be inserted, namely:-

"Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit;",

(ii) in clause (e), for the words "remove the defects", the words "remove the defects in goods" shall be substituted;

(iii) after clause (h), the following clauses shall be inserted, namely:-

"(ha) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;

(hb) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently:

Provided that the minimum amount of sum so payable shall not be less than five per cent. of the value of such defective goods sold or services provided, as the case may be, to such consumers:

Provided further that the amount so obtained shall be credited in favour of such person and utilised in such manner as may be prescribed;

(hc) to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;"

(b) in sub-section (2), for the proviso, the following proviso shall be substituted, namely:-

"Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member."

11. Amendment of section 15. - In section 15 of the principal Act, after the proviso, the following proviso shall be inserted, namely:-

"Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty per cent. of that amount or twenty-five thousand rupees, whichever is less."

12. Amendment of Section 16. - In section 16 of the principal Act,
(a) in sub-section (1), for clause (b) and the proviso thereunder, the following clause shall be substituted, namely: -

"(b) not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely: -

(i) be not less than thirty-five years of age;

(ii) possess a bachelor's degree from a recognised university; and

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that not more than fifty percent. of the members shall be from amongst persons having a judicial background.

Explanation - For the purposes of this clause, the expression "persons having a judicial background " shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:

Provided further that a person shall be disqualified for appointment as a member, if he-

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has, in the opinion of the State Government, such financial or other interest, as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the State Government;"

(b) after sub-section (1), the following sub-sections shall be inserted namely: -

"(1-A) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a Selection Committee consisting of the following members' namely: -

(i) President of the State Commission - Chairman;

(ii) Secretary of the Law Department of the State - Member

(iii) Secretary incharge of the Department dealing with Consumer Affairs in the State - Member;

Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.

(1-B)(i) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof.

(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if
the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it.

(c) in sub-section (2) the following proviso shall be inserted, namely:-

"Provided that the appointment of a member on whole - time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the State Commission";

(d) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:-

"(3) Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier:

Provided that a member shall be eligible for reappointment for another term of five years or up to the age of sixty-seven years, which ever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is made on the basis of the recommendation of the Selection Committee:

Provided further that a person appointed as a President of the State Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1) of this section:

Provided also that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1-A) in place of the person who has resigned.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or member, as the case may be, till the completion of his term."

13. Amendment of section 17. - Section 17 of the principal Act shall be renumbered as sub-section (1) and in sub-section (1) as so renumbered,-

(a) in clause (a), in sub-clause (i), for the words" exceeds rupees five lakhs but does not exceed rupees twenty lakhs", the words" exceeds rupees twenty lakhs but does not exceed rupees one crore" shall be substituted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

"(2) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction, -

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on busi-
ness or has a branch office or personally works for gain, provided that in such case either the permission of the State Commission is given or the opposite parties who do not reside or carry on business or have a branch office or personally works for gain, as the case may be, acquiesce in such institution; or
(c) the cause of action, wholly or in part, arises."

14. Insertion of new sections 17-A and 17-B - After section 17 of the principal Act, the following sections shall be inserted, namely:-

"17-A. Transfer of cases. - On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before the District Forum to another District Forum within the State if the interest of justice so requires.
17-B. Circuit Benches. - The State Commission shall ordinarily function in the State Capital but may perform its functions at such other place as the State Government may, in consultation with the State Commission, notify in the Official Gazette, from time to time."

15. Omission of section 18A. - Section 18-A of the principal Act shall be omitted.

16. Amendment of section 19. - In section 19 of the principal Act, after the first proviso, the following proviso shall be inserted, namely:-

"Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the prescribed manner fifty percent. of the amount or rupees thirty - five thousand, whichever is less."

17. Insertion of new section 19A. - After section 19 of the principal Act, the following section shall be inserted, namely:-

"19-A. Hearing of appeal. - An appeal filed before the State Commission or the National Commission shall be heard as expeditiously as possible and an endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its admission:
Provided that no adjournment shall be ordinarily granted by the State Commission or the National Commission, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission:
Provided further that the State Commission or the National Commission, as the case may be, shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act:
Provided also that in the event of an appeal being disposed of after the period so specified, the State Commission or the National Commission, as the case may be, shall record in writing the reasons for the same at the time of disposing of the said appeal."

18. Amendment of section 20- In section 20 of the principal Act, -
(a) in sub-section (1), for clause (b) and the proviso, the following clause shall be substituted, namely:-
"(b) not less than four, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely:-
(i) be not less than thirty - five years of age;
(ii) possess a bachelor's degree from a recognised university; and
(iii) be persons of ability, integrity and standing and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration;

Provided that not more than fifty percent of the members shall be from amongst the persons having a judicial background.

Explanation - For the purposes of this clause, the expression "persons having a judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:

Provided further that a person shall be disqualified for appointment, if he-
(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government involves moral turpitude; or
(b) is an undischarged insolvent; or
(c) is of unsound mind and stands so declared by a competent court; or
(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
(e) has, in the opinion of the Central Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or
(f) has such other disqualifications as may be prescribed by the Central Government:

Provided also that every appointment under this clause shall be made by the Central Government on the recommendation of a Selection Committee consisting of the following, namely:—
(a) a person who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India—Chairman
(b) the Secretary in the Department of Legal Affairs in the Government of India—Member;
(c) Secretary of the Department dealing with Consumer Affairs in the Government of India—Member;

(b) after sub-section (1), the following sub-section shall be inserted, namely:-
"(1-A) (i) The jurisdiction, powers and authority of the National Commission may be exercised by Benches thereof.

(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it. ";

(c) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:-
“(3) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier:

Provided that a member shall be eligible for reappointment for another term of five years or up to the age of seventy years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such reappointment is made on the basis of the recommendation of the Selection Committee:

Provided further that a person appointed as a President of the National Commission shall also be eligible for reappointment in the manner provided in clause (a) of sub-section (1):

Provided also that a member may resign his office in writing under his hand addressed to the Central Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1-A) in place of the person who has resigned.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 2002 shall continue to hold such office as President or member, as the case may be, till the completion of his term.”

19. Amendment of section 21. - In section 21 of the principal Act, in clause (a), in sub-clause (i), for the words "rupees twenty lakhs", the words "rupees one crore" shall be substituted.

20. Substitution of new sections for section 22- For section 22 of the principal Act, the following sections shall be substituted, namely:-

"22. Power and procedure applicable to the National Commission. - (1) The provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Commission.

(2) Without prejudice to the provisions contained in sub-section (1), the National Commission shall have the power to review any order made by it, when there is an error apparent on the face of record.

22-A. Power to set aside ex parte orders. - Where an order is passed by the National Commission ex parte against the opposite party or a complainant, as the case may be, the aggrieved party may apply to the Commission to set aside the said order in the interest of justice.

22-B. Transfer of cases. - On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Forum of one State to a District Forum of another State or before one State Commission to another State Commission.

22-C. Circuit Benches. - The National Commission shall ordinarily function at New Delhi and perform its functions at such other place as the Central Government may, in consultation with the National Commission, notify in the Official Gazette, from time to time.

22-D. Vacancy in the office of President. - When the office of President of a
District Forum, State Commission, or of the National Commission, as the case may be, is vacant or a person occupying such office is, by reason of absence or otherwise, unable to perform the duties of his office, these shall be performed by the senior-most member of the District Forum, the State Commission or of the National Commission, as the case may be:

Provided that where a retired Judge of a High Court is a member of the National Commission, such member or where the number of such members is more than one, the senior-most person amongst such members, shall preside over the National Commission in the absence of President of that Commission”.

21. Amendment of section 23. - In section 23 of the principal Act, after the proviso, the following proviso shall be inserted, namely:-

"Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited in the prescribed manner fifty percent. of that amount or rupees fifty thousand, whichever is less."

22. Substitution of new section for section 25. - For section 25 of the principal Act, the following section shall be substituted, namely:-

"25. Enforcement of orders of the District Forum, the State Commission or the National Commission. - (1) Where an interim order made under this Act is not complied with, the District Forum or the State Commission or the National Commission-as the case may be, may order the property of the person, not complying with such order to be attached.

(2) No attachment made under sub-section (1) shall remain in force for more than three months at the end of which, if the non-compliance continues, the property attached may be sold and out of the proceeds thereof, the District Forum or the State Commission or the National Commission may award such damages as it thinks fit to the complainant and shall pay the balance, if any, to the party entitled thereto.

(3) Where any amount is due from any person under an order made by a District Forum, State Commission or the National Commission, as the case may be, the person entitled to the amount may make an application to the District Forum, the State Commission or the National Commission, as the case may be, and such District Forum or the State Commission or the National Commission may issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue."

23. Amendment of section 27. - In section 27 of the principal Act, -

(a) the proviso shall be omitted,

(b) after the proviso so omitted, the existing section 27 shall be re-numbered as sub-section (1) and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely: -

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the District Forum or the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial

(3) All offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be.

24. Insertion of new section 27A. - After section 27 of the principal Act, the following section shall be inserted, namely:

"27A. Appeal against order passed under section 27 - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal under section 27, both on facts and on law, shall lie from-
   (a) the order made by the District Forum to the State Commission;
   (b) the order made by the State Commission to the National Commission; and
   (c) the order made by the National Commission to the Supreme Court.

(2) Except as aforesaid, no appeal shall lie to any court from any order of a District Forum or a State Commission or the National Commission.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of an order of a District Forum or a State Commission or, as the case may be, the National Commission:

Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if, it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days."

25. Insertion of new section 28A. - After section 28 of the principal Act, the following section shall be inserted, namely:

"28A. Service of notice, etc. - (1) All notices required by this Act to be served shall be served in the manner hereinafter mentioned in sub-section (2).

(2) The service of notices may be made by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service as are approved by the District Forum, the State Commission or the National Commission, as the case may be, or by any other means of transmission of documents (including FAX message).

(3) When an acknowledgment or any other receipt purporting to be signed by the opposite party or his agent or by the complainant is received by the District Forum, the State Commission or the National Commission, as the case may be, or postal article containing the notice is received back by such District Forum, State Commission or the National Commission, with an endorsement purporting to have been made by a postal employee or by any person authorised by the courier service to the effect that the opposite party or his agent or complainant had refused to take delivery of the postal article containing the notice or had refused to accept the notice by any other means specified in sub-section (2) when tendered or transmitted to him, the District Forum or the State Commission or the National Commission, as the case may be, shall declare that the notice had been duly served on the opposite party or to the complainant:

Provided that where the notice was properly addressed, pre-paid and duly sent by registered post acknowledgment due, a declaration referred to in this sub-section shall be made notwithstanding the fact that the acknowledgment has been lost or mislaid, or for any other reason, has not been received by the District Fo-
rum, the State Commission or the National Commission, as the case may be, within thirty days from the date of issue of notice.

(4) All notices required to be served on an opposite party or to complainant shall be deemed to be sufficiently served, if addressed in the case of the opposite party to the place where business or profession is carried and in case of complainant, the place where such person actually and voluntarily resides."

26. Amendment of section 29- In section 29 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:-

"(3) If any difficulty arises in giving effect to the provisions of the Consumer Protection (Amendment )Act, 2002, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of the Consumer Protection (Amendment) Act, 2002.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament."

27. Substitution of new section for section 30. - For section 30 of the principal Act, the following section shall be substituted, namely: -

"30. Power to make rules - (1) The Central Government may, by notification, make rules for carrying out the provisions contained in clause (a) of sub-section (1) of section 2, clause (b) of sub-section (2) of section 4, sub-section (2) of section 5, sub-section (2) of section 12, clause (vi) of sub-section (4) of section 13, clause (hb) of sub-section (1) of section 14, section 19, clause (b) of sub-section (1) and sub-section (2) of section 20, section 22 and section 23 of this Act.

(2) The State Government may, by notification, make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7, clause (b) of sub-section (2) and sub-section (4) of section 8-A, clause (b) of sub-section (1) and sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, clause (hb) of sub-section (1) and sub-section (3) of section 14, section 15 and clause (b) of sub-section (7) and sub-section (2) of section 16 of this Act."

28. Insertion of new section 30-A. - After section 30 of the principal Act, the following section shall be inserted, namely:-

"30-A Power of the National Commission to make regulations. - (1) The National Commission may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may make provisions for the cost of adjournment of any proceeding before the District Forum, the State Commission or the National Commission, as the case may be, which a party may be ordered to pay."

29. Substitution of new section for section 31. - For section 31 of the principal Act, the following section shall be substituted, namely: -

"31. Rules and regulations to be laid before each House of Parliament. - (1) Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a
total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately follow-
ing the session or the successive sessions aforesaid, both Houses agree in mak-
ing any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature."

THE CONSUMER PROTECTION ACT, 1986

as amended by

THE CONSUMER PROTECTION (AMENDMENT) ACT, 2002
(68 of 1986)

[24th December, 1986]

An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers’ disputes and for matters connected therewith.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows :-

CHAPTER I
PRELIMINARY

1. Short title, extent, commencement and application - (1) This Act may be called The Consumer Protection Act, 1986.
(2) It extends to the whole of India except the State of Jammu and Kashmir.
(3) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different States and for different provisions of this Act.
(4) Save as otherwise expressly provided by the Central Government by notification, this Act shall apply to all goods and services.

2. Definitions. - (1) In this Act, unless the context otherwise requires, -

1[(a)"appropriate laboratory" means a laboratory or organisation -

(i) recognised by the Central Government;

(ii) recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf, or


2. Subs. by Act 50 of 1993, Sec. 2 for clause (a) (w.e.f. 18.6.1993).
(iii) any such laboratory or organisation established by or under any law for the
time being in force, which is maintained, financed or aided by the Central Govern-
ment or a State Government for carrying out analysis or test of any goods with a
view to determining whether such goods suffer from any defect;]

3[(aa) "branch office" means-
(i) any establishment described as a branch by the opposite party; or
(ii) any establishment carrying on either the same or substantially the same ac-
tivity as that carried on by the head office of the establishment; ]

(b) "complainant" means-
(i) a consumer; or
(ii) any voluntary consumer association registered under the Companies Act,
1956 (1 of 1956) or under any other law for the time being in force; or
(iii) the Central Government or any State Government; who or which makes a
complaint
4[(iv) one or more consumers, where there are numerous consumers having the
same interest;]

5[(v) in case of death of a consumer, his legal heir or representative,] who or
which makes a complaint;
(c) "complaint" means any allegation in writing made by a complainant that-
6[(i) an unfair trade practice or a restrictive trade practice has been adopted by
7[any trader or service provider];]

(ii) [the goods bought by him or agreed to be bought by him] suffer from one
or more defects;
(iii) [the services hired or availed of or agreed to be hired or availed of by him]
suffer from deficiency in any respect;
7[(iv) a trader or the service provider, as the case may be, has charged for the
goods or for the services mentioned in the complaint, a price in excess of the price-
(a) fixed by or under any law for the time being in force;
(b) displayed on the goods or any package containing such goods;
(c) displayed on the price list exhibited by him by or under any law for the time
being in force;
(d) agreed between the parties];
8[(v) goods which will be hazardous to life and safety when used are being of-
fered for sale to the public, -

(A) in contravention of any standards relating to safety of such goods as re-

4. Ins. by Act 50 of 1993, Sec. 2 (w.e.f. 18.6.1993).
7. Subs. by Act 62 of 2002, sec. 2 for "any trader".
8. Subs. by Act 50 of 1993, sec. 2, for "the goods mentioned in the complaint" (w.e.f. 18.6.1993).
9. Subs. by Act 50 of 1993, sec. 2, for "the services mentioned in the complaint" (w.e.f. 18.6.1993).
10. Subs. by Act 62 of 2002, sec. 2, for sub-clause "(iv) a trader has charged for the goods
mentioned in the complaint a price in excess of the price fixed by or under any law for the time
being in force or displayed on the goods or any package containing such goods.",
11. Ins. by Act 50 of 1993, sec. 2 (w.e.f. 18.6.1993) and subs. by Act 62 of 2002, sec. 2, for sub-
clause "(v) goods which will be hazardous to life and safety when used, are being offered for sale
to the public in contravention of the provisions of any law for the time being in force requiring
traders to display information in regard to the contents, manner and effect of use of such goods."
"
The Consumer Protection Act, 1986

required to be complied with, by or under any law for the time being in force;

(B) if the trader could have known with due diligence that the goods so offered are unsafe to the public]

12[(vi) services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety;]

with a view to obtaining any relief provided by or under this Act;

(d) "consumer" means any person who-

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) [hires or avails of] any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who [hires or avails of] the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person [but does not include a person who avails of such services for any commercial purpose.]

13[Explanation. - For the purposes of this clause, "commercial purpose" does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment;]

(e) "consumer dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;

(f) "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or [under any contract, express or implied, or] as is claimed by the trader in any manner whatsoever in relation to any goods;

(g) "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;

(h) "District Forum" means a Consumer Disputes Redressal Forum established under clause (a) of section 9;

12. Sub-clause (vi) along with sub-clauses (iv) and (v) subs. for the earlier clauses (iv) and (v) by Act 62 of 2002, sec. 2.
15. Subs. by Act 62 of 2002, sec. 2, for "Explanation—For the purposes of sub-clause (i), "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment, ".
(i) "goods" means goods as defined in the Sale of Goods Act, 1930 (3 of 1930);

(ii) "manufacturer" means a person who—

(1) makes or manufactures any goods or part thereof; or

(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others; or

(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer;

Explanation—Where a manufacturer despatches any goods or part thereof to any branch office maintained by him, such branch office shall not be the manufacturer even though the parts so despatched to it are assembled at such branch office and are sold or distributed from such branch office;

[jj] "member" includes the President and a member of the National Commission or a State Commission or a District Forum, as the case may be;]

(k) "National Commission" means the National Consumer Disputes Redressal Commission established under clause (c) of section 9;

(l) "notification" means a notification published in the Official Gazette;

(m) "person" includes, -

(i) a firm whether registered or not;

(ii) a Hindu undivided family;

(iii) a co-operative society;

(iv) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860) or not;

(n) "prescribed" means prescribed by rules made by the State Government, or as the case may be, by the Central Government under this Act;

(nn) "regulation" means the regulations made by the National Commission under this Act;

(nn) "restrictive trade practice" means a trade practice which tends to bring about manipulation of price or it conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include—

(a) delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;

(b) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;

(o) "Service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in con-
connection with banking, financing insurance, transport, processing, supply of electrical or other energy, board or lodging or both entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

22 "spurious goods and services" mean such goods and services which are claimed to be genuine but they are actually not so;

(p) "State Commission" means a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9;

(q) "trader" in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof;

(r) "unfair trade practice" means a trade practice which for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:-

(1) the practice of making any statement, whether orally or in writing or by visible representation which, -

(i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;

(ii) falsely represents that the services are of a particular standard, quality or grade;

(iii) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;

(iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;

(v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

(vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;

(vii) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof;

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(viii) makes to the public a representation in a form that purports to be -

(i) a warranty or guarantee of a product or of any goods or services; or

(ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result,

if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;

(ix) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided,
and, for this purpose, a representation as to price shall be deemed to refer to the
description of the product at which the product or goods or services has or have been sold by sellers or
provided by suppliers generally in the relevant market unless it is clearly specified
to be the description of the product at which the product has been sold or services have been provided
by the person by whom or on whose behalf the representation is made;
(x) gives false or misleading facts disparaging the goods, services or trade of
another person.

Explanation. - For the purposes of clause (1), a statement that is-
(a) expressed on an article offered or displayed for sale, or on its wrapper or
container; or
(b) expressed on anything attached to, inserted in, or accompanying an article
offered or displayed for sale, or on anything on which the article is mounted for
display or sale; or
(c) contained in or on anything that is sold, sent, delivered, transmitted or in
any other manner whatsoever made available to a member of the public,
shall be deemed to be a statement made to the public by, and only by, the
person who had caused the statement to be so expressed, made or contained;
(2) permits the publication of any advertisement whether in any newspaper or
otherwise, for the sale or supply at a bargain price, of goods or services that are
not intended to be offered for sale or supply at the bargain price, or for a period
that is, and in quantities that are, reasonable, having regard to the nature of the
market in which the business is carried on, the nature and size of business, and
the nature of the advertisement.

Explanation. - For the purpose of clause (2), "bargain price"means-
(a) a price that is stated in any advertisement to be a bargain price, by refer-
ence to an ordinary price or otherwise; or
(b) a price that a person who reads, hears or sees the advertisement, would
reasonably understand to be a bargain price having regard to the prices at which
the product advertised or like products are ordinarily sold;
(3) permits -
(a) the offering of gifts, prizes or other items with the intention of not providing
them as offered or creating impression that something is being given or offered free
of charge when it is fully or partly covered by the amount charged in the transac-
tion as a whole;
(b) the conduct of any contest, lottery, game of chance or skill, for the pur-
pose of promoting, directly or indirectly, the sale, use or supply of any product or
any business interest;

([(3A) withholding from the participants of any scheme offering gifts, prizes or
other items free of charge, on its closure the information about final results of the
scheme.]

Explanation. - For the purposes of this sub-clause, the participants of a scheme
shall be deemed to have been informed of the final results of the scheme where
such results are within a reasonable time published, prominently in the same news-
papers in which the scheme was originally advertised;]
(4) permits the sale or supply of goods intended to be used, or are of a kind

likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;

(5) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services;

24[(6) manufacture of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services.]

(2) Any reference in this Act to any other Act or provision thereof which is not in force in any area to which this Act applies shall be construed to have a reference to the corresponding Act or provision thereof in force in such area.

COMMENTS

Power tiller—Claim for replacement and repairs—Plea of limitation—No justification for negating the plea—With cursory and passing observation—Question of stage of proceedings has no relevance—So far question of limitation is concerned. M/s. Kerala Agro Machinery Corporation Ltd. vs Bijoy Kumar Roy and Ors. (SC) 2002 (1) UC 671

Insurance claim—For loss or theft—Right of buyer to claim policy amount would arise—When he obtained title to property—And he must produce the documents of transfer. National Insurance Co. Ltd. vs Sky Gems (SC) 2002 (1) UC 314

Housing—Relief—Interest—Absence of any provision in the Act for grant of interest on the amount of refund to be made in the case of cancellation of booking—Provision in brochure denying the right to claim interest has also to be read down to be applicable only in case where claimant himself is responsible. Ghaziabad Development Authority v. Union of India 2000(7) SRJ 226; AIR 2000 SC 2003; 2000 (7) JT 286; 2000 (6) SCC 113

Consumer—Deficiency in service—Respondent applied to appellant for payment of his provident fund—Appeal to Supreme Court contending that facilities provided by scheme not ‘service’—Nor respondent ‘Consumer’—Scheme clearly and unambiguously indicate that it is service within meaning of Section 2(1) (o) and member consumer within meaning of Section 2(1)(d) of the Act—Services rendered under scheme not free of charge—Scheme Service under the act—State Commission and National Commission rightly held that Act applicable in case of scheme on ground that its member ‘consumer’ under Section 2(1)(d) and scheme ‘service’ under Section 1(o). Regional Provident Fund Comm. v. Shiv Kumar Joshi AIR 2000 SC 331; 2000 (1) SCC 98; 1999(10) JT 70; 2000 SCC (L&S) 37

When realisation of money in U. S. Dollars frustrated by reason of governmental action—Appellants could not be held responsible for same—Commission totally failed to appreciate this aspect—All that required to be done in terms of agreement and under contract done by two banks—Commission not justified in holding that appellants services deficient to attract provisions of Consumer Protection Act. Corporation Bank & Anr. v. Navin J. Shah 2000(2) SRJ 269; AIR 2000 SC 761; 2000 (1) JT 317; 2000 (2) SCC 628

Medical service—Dismissal of complaint by National Commission after keeping it pending for six years holding the claim to be excessive and exaggerated with liberty to move State Commission or District Forum—In the matter of compensation loss of salary alone is not relevant but the conduct of respondent is also relevant. Charan Singh v. Healing Touch Hospital 2000(9) SRJ 123; AIR 2000 SC 3138; 2000 (7) SCC 668; 2000 (1) JT (Supp) 26

Claim for compensation—Medical Negligence—Forum rejected complaint as complainant are not consumer—Challenged—Sustainability of—Appreciation of evidence—Employees welfare hospital—Patient admitted but condition deteriorated—Request to refer specialist—Denied—Patient died—Consideration of—Legality of—Scope and effect of—Held—Benefits including medical treatment by various rules or schemes framed by Government not free service—Employee would be consumer—C.G.H. Scheme is a welfare measure and part and parcel of service benefits—Quashed

the order of forum—Matter remanded back for adjudication on merits. *Jagdish Kumar Bajpai versus Union of India [NC]* 2006 (1) UC 634 : 2006 NCJ 191

- Shops in commercial complex—Basic amenities/facilities not provided by Board as per terms and conditions—Validity of—Held—Clear deficiency in service—Complainant is entitled to compensation. *Delhi Cantonment Board versus S. K. Kapoor & Associates [NC]* 2006 (2) UC 849 : 2006 NCJ 308

- Defective electric meter replaced by another defective meter—No bill issued during six year continuously—Demanded dues in lumpsum on retirement—Desist to issue “No dues Certificate”—Consideration of—Held—Clear deficiency in service—Harassment of common man by public authority is impermissible—Exemplary damages of Rs. 50,000/- awarded. *V. P. Aggarwal Versus Chief Engineer, Electricity Department Union Territoy Chandigarh [NC]* 2006 (2) UC 1185 : 2006 NCJ 488

- Housing—Possession not delivered in spite of the fact that a huge amount deposited—Sought claim—Justification of—Scope and effect of—Held—Clear deficiency in service—Directed to refund the amount with interest at 12% P.A. *Juliet V. Quadros versus Malti Kumar & Ors. [NC]* 2006 (1) UC 267 : 2006 NCJ 137

- Motor Vehicle—Registration of—Un-explained and unjustifiable delay in issuing Registration certificate—Sought compensation—Allowed by forum—Enhanced by State Commission with cost—Challenged—Maintainability of—Legality of—Consideration of—Effect of—Held—Harassment of ordinary citizen by public functionary, an exemplary damages required to be awarded—Order modified—Awarded Rs. 50,000/- in addition to costs awarded by state commission—Petition disposed of accordingly. *Harmit Singh versus Union of India & Anr. [NC]* 2006 (1) UC 594 : 2006 NCJ 177

- Banking services—Locker found broken and ornaments missing—Sought compensation—Allowed—Challenged—Legality of—Held—Apparent deficiency in service—No illegality or jurisdic-

- Insurance claim—Fire policy—Stock damaged due to fire—Assessed by surveyor—Claim closed as Base less—Consideration of—Justification of—Effect of—Held—Repudiation totally misconceived—Without sufficient reason no question arises to disagree with surveyor report which is a important document—Directed assessed amount payable with costs. *Manmandir Synthetics Pvt. Ltd. versus New India Assurance Co. Ltd. [NC]* 2006 (2) UC 1201 : 2006 NCJ 495


- Saving bank account—Withdrawal of money through forged signature—Sought compensation—Maintainability of—Appreciation of evidence—Contention that Passbook was misplaced—Expert report that signature was forged—Only the contention of bank that withdrawal form was presented with passbook and amount was paid—No intimation to bank about lost of passbook—Forum and State Commission held the contributory negligence and ordered to bank to pay 50% amount with 12% as interest and Rs. 5000/- as compensation—Validity of—Held—Completely Bank’s negligence—Ordered to bank to pay full amount with 6% as interest with Rs. 5000/- as compensation—Set aside the order of lower courts—Petition allowed. *N. Venkanna versus Andhra Bank [NC]* 2006 (2) UC 1024 : 2006 NCJ 374


- Banking services—Claim for compensation—Determination of—Appreciation of evidence—Scheme for uplift SC/ST persons—Applied for loan to purchase vehicle—Deposited margin money and house mortgaged as security—Vehicle not delivered even after reminders—No explanation—Justification of—Held—Apparent deficiency in service—Ordered to refund margin money and to discharge mortgage deed with costs and compensation—Petition dismissed. *Karnataka SC/ST Development Ltd. & Anr. versus Channabasappa & Anr. [NC]* 2006 (2) UC 1016 : 2006 NCJ 370
Claim for securities amount—“Kisan Vikas Patra”—Payment of interest denied on maturity as purchased by improper manner—Consideration of—Scope and effect of—Held—Error if any is on part of issuing post office and not acceptable—Complainant is entitled to full amount on maturity with interest—Dismissed petition. *Post Master & Ors. versus Krishi Upaj Mandi Samiti* [NC] 2006 (1) UC 648 : 2006 NCJ 210

Housing—Claim for compensation—Non-delivery of possession and failure to refund the money—Cancelled the agreement arbitrary and given possession to third person—Scope and effect of—Held—Complete deficiency in service—Subsequent purchaser held to be jointly liable to pay compensation with cost and interest. *Patrick Gonsalves & Ors. versus Haven Developers Pvt. Ltd.* [NC] 2006 (2) UC 1035 : 2006 NCJ 386

Housing—No allotment made for last 18 years—Claim for compensation or like wise—Allowed by Forum and upheld by appellate court—Challenged—Validity of—Appreciation of evidence—No explanation or evidence or reasons produced by revisionist—Consideration of—Scope and effect of—Held—Clear deficiency in service—Order is just and proper—No merit—Dismissed revision. *Indraprastha Welfare Society versus H.S. Venkateshmurthy* [NC] 2006 (1) UC 672 : 2006 NCJ 229

Motor Vehicle Act, 1988—Section 2(25) and (3)—Motor Accident—Claim for compensation—Rejected by Forum and also state commission—Consideration of—Appreciation of evidence—Driver has permanent licence to drive vehicle—No other evidence to uphold the contention of insurance—Legality of—Scope and effect of—Held—Company is liable to pay assessed amount with interest—Order of lower court is unsustainable—Quashed. *Kanakalakshmi versus United India Insurance Co. Ltd.* [NC] 2006 (2) UC 1652 : 2006 NCJ 224


3. Act not in derogation of any other law. - The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

CHAPTER II

CONSUMER PROTECTION COUNCILS

4. The Central Consumer Protection Council. - (1) *The Central Government shall* by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council).

(2) The Central Council shall consist of the following members, namely:-

(a) the Minister in charge of the *[consumer affairs] in the Central Government, who shall be its Chairman, and

(b) such number of other official or non-official members representing such interests as may be prescribed.

5. Procedure for meetings of the Central Council. - (1) The Central Council shall meet as and when necessary, but at least one meeting] of the Council shall be held every year.

(2) The Central Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

6. Objects of the Central Council. - The objects of the Central Council shall be to promote and protect the rights of the consumers such as, -

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26. Subs. by Act 50 of 1993, sec. 3, for “the Department of Food and Civil Supplies” (w.e.f. 18.6.1993).
27. Subs. by Act 50 of 1993, sec. 4, for “not less than three meetings” (w.e.f. 18.6.1993).
(a) the right to be protected against the marketing of goods [and services] which are hazardous to life and property;
(b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods [or services, as the case may be,] so as to protect the consumer against unfair trade practices;
(c) the right to be assured, wherever possible access to a variety of goods [and services] at competitive prices;
(d) the right to be heard and to be assured that consumer’s interests will receive due consideration at appropriate for a
(e) the right to seek redressal against unfair trade practices [or restrictive trade practices] or unscrupulous exploitation of consumers; and
(f) the right to consumer education.

7. The State Consumer Protection Councils. - (1) [The State Government shall], by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council for.......(hereinafter referred to as the State Council).

(2) The State Council shall consist of the following members, namely:-
(a) the Minister incharge of consumer affairs in the State Government who shall be its Chairman;
(b) such number of other official or non-official members representing such interests as may be prescribed by the State Government;
(c) such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.]

(3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.]

COMMENTS

Review—State Commission had no power to review its order. Cama Builders vs Raghavan Gopalkrishnan and another (NC) 2002 Current 304

8. Objects of the State Council. - The objects of every State Council shall be to promote and protect within the State the rights of the consumers laid down in clauses (a) to (f) of section 6.

[8-A. The District Consumer Protection Council; - (1) The State Government shall establish for every district, by notification, a council to be known as the District Consumer Protection Council with effect from such date as it may specify in such notification.

(2) The District Consumer Protection Council (hereinafter referred to as the District Council) shall consist of the following members, namely:-
(a) the Collector of the district (by whatever name called), who shall be its Chairman; and
(b) such number of other official and non-official members representing such

29. Subs. by Act 62 of 2002, sec. 4, for "The State Government may".
30. Subs. by Act 50 of 1993, sec. 6, for sub-section (2) (w.e.f. 18.6.1993)
interests as may be prescribed by the State Government.

(3) The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The District Council shall meet at such time and place within the district as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

8-B. Objects of the District Council. - The objects of every District Council shall be to promote and protect within the district the rights of the consumers laid down in clauses (a) to (f) of section 6.

CHAPTER III

CONSUMER DISPUTES REDRESSAL AGENCIES

9. Establishment of Consumer Disputes Redressal Agencies. - There shall be established for the purposes of this Act, the following agencies, namely: -

(a) a Consumer Disputes Redressal Forum to be known as the "District Forum" established by the State Government in each district of the State by notification;

(Provided that the State Government may, if it deems fit, establish more than one District Forum in a district;)

(b) a Consumer Disputes Redressal Commission to be known as the "State Commission" established by the State Government in the State by notification; and

(c) a National Consumer Disputes Redressal Commission established by the Central Government by notification.

COMMENTS

Appellant contending that Section 9 of Carriers Act does not apply to proceeding under Consumer Protection Act—Proceeding before National Commission ordinarily summary proceeding and in appropriate case where Commission feels that issues raised too contentious to be decided in summary proceeding it may refer parties to civil court—Does not mean that proceeding before Commission to be decided ignoring express statutory provisions of Section 9 of Carriers Act in proceeding—Proceeding before Commission come within term "Suit"—Contention raised rejected. Patel Roadways Ltd. v. Birla Yamaha Ltd. 2000(4) SRJ 402; AIR 2000 SC 1461; 2000 (3) JT 618; 2000 (4) SCC 91

10. Composition of the District Forum. - (1) Each District Forum shall consist of, -

(a) a person who is, or has been, or is qualified to be a District Judge, who shall be its President;

(b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely:-

(i) be not less than thirty-five years of age,
(ii) possess a bachelor's degree from a recognised university,

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration;

Provided that a person shall be disqualified for appointment as a member, if he-

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the State Government.[]

37[(1.A) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:-

(i) the President of the State Commission - Chairman,

(ii) Secretary, Law Department of the State - Member,

(iii) Secretary, in-charge of the Department dealing with consumer affairs in the State - Member;

Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.]

38[(2) Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier;

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-five years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is also made on the basis of the recommendation of the Selection Committee;

Provided further that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1-A) in place of such member.

37. Ins. by Act 50 of 1993, sec. 8 (w.e.f. 18.6.1993).


39. Subs. by Act 62 of 2002, sec. 6, for sub-section "(2) Every member of the District Forum shall hold office for a term of five years or up to the age of 65 years, whichever is earlier, and shall not be eligible for re-appointment:

Provided that a member may resign his office in writing under his hand-addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by the appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who has resigned."
of the person who has resigned:

Provided also that a person appointed as the President or as a member, before
the commencement of the Consumer Protection (Amendment) Act, 2002, shall
continue to hold such office as President or member, as the case may be, till the
completion of his term.]

(3) The salary or honorarium and other allowances payable to, and the other terms
and conditions of service of the members of the District Forum shall be such as may
be prescribed by the State Government:

[Provided that the appointment of a member on whole-time basis shall be made
by the State Government on the recommendation of the President of the State Com-
mission taking into consideration such factors as may be prescribed including the work
load of the District Forum.

11. Jurisdiction of the District Forum. - (1) Subject to the other provisions of
this Act, the District Forum shall have jurisdiction to entertain complaints where the
value of the goods or services and the compensation, if any, claimed [does not ex-
ceed rupees twenty lakhs]].

(2) A complaint shall be instituted in a District Forum within the local limits of
whose jurisdiction,

- (a) the opposite party or each of the opposite parties, where there are more than
one, at the time of the institution of the complaint, actually and voluntarily resides or
[carries on business or has a branch office or] personally works for gain, or

(b) any of the opposite parties, where there are more than one, at the time of
the institution of the complaint, actually and voluntarily resides, or [carries on
business or has a branch office or] personally works for gain, provided that in such
case either the permission of the District Forum is given, or the opposite parties
who do not reside, or [carry on business or have a branch office], or personally
work for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

COMMENTS

Pecuniary jurisdiction—Compensation demanded Rs. 5,00,000—And cost of pro-
ceedings claimed Rs. 5,000 with 18% interest per annum—HELD—Award of cost of pro-
ceedings and interest are discretionary matters—And they may or may not be allowed—
Therefore said matter within pecuniary jurisdiction of District Forum. M/s. Pepsi Cola India
Marketing Co. vs Ashok Kumar Gupta (S.Com.) 2002 (1) UC 43

12. Manner in which complaint shall be made. - (1) A complaint in rela-

41. Subs. by Act 50 of 1993, sec. 9, for "is less than rupees one lakh" (w.e.f. 18.6.1993) and again
subs. by Act 62 of 2002, sec. 7, for "does not exceed rupees five lakhs".
42. Subs. by Act 50 of 1993, sec. 9, for "carries on business or" (w.e.f. 18.6.1993).
43. Subs. by Act 50 of 1993, sec. 9, for "carries on business" (w.e.f. 18.6.1993).
44. Subs. by Act 50 of 1993, sec. 9, for "carry on business" (w.e.f. 18.6.1993).
8, for section "12. Manner in which complaint shall be made.—A complaint in relation to any
goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be
provided may be filed with a District Forum by—

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or
such service provided or agreed to be provided;

(b) any recognised consumer association whether the consumer to whom the goods sold or de-
 delivered or agreed to be sold or delivered or service provided or agreed to be provided is a
member of such association or not;

(c) one or more consumers, where there are numerous consumers having the same interest,
with the permission of the District Forum, on behalf of, or for the benefit of, all consumers
so interested; or

(d) The Central or the State Government.
Explanation.—For the purpose of this section, "recognised consumer association" means any
voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any
other law for the time being in force".
tion to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by-

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(c) one or more consumers, where there are nuneous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the central or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general.

(2) Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.

(3) On receipt of a complaint made under sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected:

Provided that a complaint shall not be rejected under this sub-section unless an opportunity of being heard has been given to the complainant;

Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

(4) Where a complaint is allowed to be proceeded with under sub-section (3), the District Forum may proceed with the complaint in the manner provided under this Act:

Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.

Explanation—For the purposes of this section, "recognised consumer association" means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force.

COMMENTS


13. 46[Procedure on admission of complaint] - (1) The District Forum shall, 47[on admission of a complaint], if it relates to any goods,- 48[(a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended

46. Subs. by Act 62 of 2002, sec. 9, for "Procedure on receipt of a complaint".
47. Subs. by Act 62 of 2002, sec. 9, for "on receipt of complaint".
48. Subs. by Act 62 of 2002, sec. 9, for clause (a) refer a copy of the complaint to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;"
period not exceeding fifteen days as may be granted by the District Forum;]

(b) where the opposite party on receipt of a complaint referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);

(c) where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the District Forum shall obtain a sample of the goods from the complainant, seal it and authenticate it in the manner prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Forum within a period of forty-five days of the receipt of the reference or within such extended period as may be granted by the District forum;

(d) before any sample of the goods is referred to any appropriate laboratory under clause (c), the District Forum may require the complainant to deposit to the credit of the Forum such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;

(e) the District Forum shall remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, the District Forum shall forward a copy of the report along with such remarks as the District Forum may feel appropriate to the opposite party;

(f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, the District Forum shall require the opposite party or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory;

(g) the District Forum shall thereafter give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) and issue an appropriate order under section 14.

(2) The District Forum shall, if the complaints admitted by it under section 12 relates to goods in respect of which the procedure specified in sub section (1) cannot be followed, or if the complaint relates to any services, -

(a) refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

(b) where the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by

49. Subs. by Act 62 of 2002, sec. 9, for "complaint received".
the District Forum, the District Forum shall proceed to settle the consumer dispute,—

(i) on the basis of evidence brought to its notice by the complainant and the opposite party, where the opposite party denies or disputes the allegations contained in the complaint, or

(ii) **ex parte** on the basis of evidence brought to its notice by the complainant where the opposite party omits or fails to take any action to represent his case within the time given by the Forum;

[(c) where the complainant fails to appear on the date of hearing before the District Forum, the District Forum may either dismiss the complaint for default or decide it on merits.]

(3) No proceedings complying with the procedure laid down in sub-sections (1) and (2) shall be called in question in any Court on the ground that the principles of natural justice have not been complied with.

[(3-A) Every complaint shall be heard as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities: and within five months of it requires analysis or testing of commodities.]

Provided that no adjournment shall be ordinarily granted by the District Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum:

Provided further that the District Forum shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act:

Provided also that in the event of a complaint being disposed of after the period so specified, the District Forum shall record in writing, the reasons for the same at the time of disposing of the said complaint.

(3-B) Where during the pendency of any proceeding before the District Forum, it appears to it necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.]

(4) For the purposes of this section, the District Forum shall have the same powers as are vested in a civil court under Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:-

(i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath,

(ii) the discovery and production of any document or other material object producible as evidence,

(iii) the reception of evidence on affidavits,

(iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source,

(v) issuing of any commission for the examination of any witness, and

(vi) any other matter which may be prescribed.

(5) Every proceeding before the District Forum shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code

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50. Subs. by Act 62 of 2002, sec. 9, for "on the basis of evidence".


The Consumer Protection Act, 1986

(45 of 1860), and the District Forum shall be deemed to be a civil court for the purposes of section 195, and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

53[(6) Where the complainant is a consumer referred to in sub-clause (iv) of clause (b) of sub-section (1) of section 2, the provisions of rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon.]

52[(7) In the event of death of a complainant who is a consumer or of the opposite party against whom the complaint has been filed, the provisions of Order XXII of the First Scheduled to the Code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to the plaintiff and the defendant shall be construed as reference to a complainant or the opposite party, as the case may be.]

COMMENTS

- Negligence of experts—It not would be proper to hold that consumers should be directed to approach civil court. Dr. J.J. Merchant and Ors. vs Shrinath Chaturvedi (SC) 2003 Current 54
- Procedure and time limit—Prescribed under the Act and Rules is required to be strictly adhered and followed—For avoiding delay indisposal of cases. Dr. J.J. Merchant and Ors. vs Shrinath Chaturvedi (SC) 2003 Current 54
- Delay in disposal—Of complaint—It would not be a ground for rejecting the complaint—And directing to approach civil court. Dr. J.J. Merchant and Ors. vs Shrinath Chaturvedi (SC) 2003 Current 54
- Duty and power of forums and commissions under the Act—Delegation of authority to adjudicate to third party is an unhealthy practice—All earlier decisions which stood final would not be reopened. Skypak Couriers Ltd. v. Tata Chemicals Ltd. 2000(7) SRJ 101; AIR 2000 SC 2008; 2000 (5) SCC 294; 2000 (6) JT 560
- Second respondent hired two trucks for transporting broken rice—Truck loaded with consignment did not reach destination—Consignment lost—Second respondent made claim for value of consignment upon first respondent—Claim settled by first respondent—Amount paid to second respondent—Second respondent executed “Letter of Subrogation” in favour of first respondent—Also executed special power of attorney—Appeal to Supreme Court—Loss of consignment already concurred all that was assigned and transferred by second respondent to first respondent—First respondent not a ‘consumer’ within meaning of the Act—Not entitled to maintain complaint—By reason of transfer and assignment of all rights of second respondent in first respondent’s favour, second respondent retained no right to recover compensation for loss of consignment. Oberai Forwarding Agency v. New India Assurance Co. Ltd. 2000(2) SRJ 403; AIR 2000 SC 855; 2000 (1) JT 508; 2000 (2) SCC 407

14. Finding of the District Forum. - (1) If, after the proceeding conducted under section 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to 54[do] one or more of the following things, namely:-

54. Subs. by Act 50 of 1993, sec. 12, for “take” (w.e.f. 18.6.1993).
(a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
(b) to replace the goods with new goods of similar description which shall be free from any defect;
(c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;
(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party;
Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit;
(e) to remove the defects in goods or deficiencies in the services in question;
(f) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;
(g) not to offer the hazardous goods for sale;
(h) to withdraw the hazardous goods from being offered for sale;
Provided that the minimum amount of sum so payable shall not be less than five percent. of the value of such defective goods sold or services provided, as the case may be, to such consumers:
Provided further that the amount so obtained shall be credited in favour of such person and utilized in such manner as may be prescribed;
(hc) to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;
(i) to provide for adequate costs to parties.
Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member.
(2-A) Every order made by the District Forum under sub-section (1) shall be signed by its President and the member or members who conducted the proceeding:
Provided that where the proceeding is conducted by the President and one mem-

57. Subs. by Act 62 of 2002, sec. 10, for "remove the defects".
59. Subs. by Act 62 of 2002, sec. 10, for "Provided that where the member, for any reason, is unable to conduct the proceeding till it is completed, the President and the other member shall conduct such proceeding de novo."
ber and they differ on any point or points, they shall state the point or points on which they differ and refer the same to the other member for hearing on such point or points and the opinion of the majority shall be the order of the District Forum.]

(3) Subject to the foregoing provisions, the procedure relating to the conduct of the meetings of the District Forum, its sittings and other matters shall be such as may be prescribed by the State Government.

COMMENTS

› House booking—Cost of house increased—Complainant not in position to pay the renewed price—Held—Complainant entitled to refund of entire amount deposited by him to Housing Board—Alongwith interest from date of deposit till payment. Vishan Lal vs Property Officer U. P., Avas Evam Vikas Parishad and another (U. P. St. Com.) 2002 Current 644

› Consumer Protection Act, Consumer Fora can direct payment of compensation to consumer for loss or injury suffered by consumer due to negligence of opposite party—Burden of proof on complainant—Section 9 of Carriers Act imposing burden on defendant or common carrier to prove absence of negligence—Cannot be applied to shift onus to carrier to prove absence of negligence—Even assuming Section 9 of Carriers Act, does not apply to cases before Consumer Fora under Consumer Protection Act—Principle of common law gets attracted to all cases coming up before Consumer Fora—Section 14(1)(d) of Consumer Protection to be understood in that light and burden of proof gets shifted to carriers by application of the legal presumption under common law. M/s. Economic Transport Organization etc. v. Dharwad Distt. Khadi Gramudyog Sangh etc. 2000(5) SRJ 82; AIR 2000 SC 1635; 2000 (4) JT 327; 2000 (5) SCC 78

15. Appeal. - Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed:

Provided that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not finding it within that period:

provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty per-cent. of that amount or twenty-five thousand rupees, whichever is less.]

COMMENTS

› Appeal—Excessive billing by Telephone Department—Complainant in order to save his telephone being disconnected deposited the amount—District forum directed for payment of Rs. 924/- only—And ordered to revise the bill and rest amount will adjust in future bills—Connection was local without STD—Held—Not believable that the calls of Rs. 2874/- would have been made by complainant—District forum not committed any illegality. Divisional Engineer (Telecom) and another vs Kuldip Bhargava (St. Com.) 2002 Current 184

› Appeal—Insurance—Driver of vehicle had licence to light vehicle—Vehicle in question was a medium goods vehicle—Held—He was not authorised to drive this vehicle—Complaint of appellant rightly rejected by District Forum—Appeal dismissed. Asha Ram vs United India Insurance Co. Ltd. (Utt Com.) 2003 (1) UC 161

› Proceedings before forum—Nature of—Ambit and scope of Section 10 of Carriers

60. Ins. by Act 62 of 2002, sec. 11.
Act—Dispute regarding delivery of goods—Consideration of—Effect of—Held—Proceedings before forum are judicial in nature rather summary proceedings does not in any way warrant of requirement service of notice under Section 10 of Carriers Act. Baidyanath Ayurved Bhawan Ltd. versus Vishal Goods Transport Co. & Ors. [St. Comm. Utt.] 2006 (1) UC 186

16. Composition of the State Commission. - (1) Each State Commission shall consist of—

(a) a person who is or has been a Judge of a High Court, appointed by the State Government, who shall be its President:

(b) not less than two, and not more than such number of members, as may be prescribed, and one of who shall be a woman, who shall have the following qualifications, namely:-

(i) be not less than thirty-five years of age;
(ii) possess a bachelor’s degree from a recognised university; and
(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that not more than fifty percent. of the members shall be from amongst persons having a judicial background.

Explanation. - For the purposes of this clause, the expression "persons having a judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:

Provided further that a person shall be disqualified for appointment as a member if he-

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
(b) is an undischarged insolvent; or
(c) is of unsound mind and stands so declared by a competent court; or
(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
(e) has, in the opinion of the State Government, such financial or other interest, as is likely to affect prejudicially the discharge by him of his functions as a member; or
(f) has such other disqualifications as may be prescribed by the State Government.

(1-A) Every appointment under Sub-section (1) shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely :-

(i) President of the State Commission —Chairman.
(ii) Secretary of the Law Department of the State —Member.
(iii) Secretary, incharge of Department dealing with consumer affairs in the State —Member.

Provided that every appointment made under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely :-

(i) President of the State Commission —Chairman.
(ii) Secretary of the Law Department of the State —Member.

62. Subs. by Act 62 of 2002, sec. 12, for clause "(b) two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman;" provided that every appointment made under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely ;—

(i) President of the State Commission —Chairman.
(ii) Secretary of the Law Department of the State —Member.

Government on the recommendation of a Selection Committee consisting of the following members, namely:-

(i) President of the State Commission -Chairman;
(ii) Secretary of the Law Department of the State -Member;
(iii) Secretary incharge of the Department dealing with Consumer Affairs in the State -Member;

Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.

(1-B) (i) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof.

(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it.

(2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the State Commission shall be such as may be prescribed by the State Government:

[Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the State Commission.]

(3) Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier:

Provided that a member shall be eligible for reappointment for another term of five years or up to the age of sixty-seven years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in Clause (b) of Sub-section (1) and such reappointment is made on the basis of the recommendation of the Selection Committee:

Provided further that a person appointed as a President of the State Commission shall also be eligible for reappointment in the manner provided in Clause (a) of Sub-section (1) of this section:

64. The words "(including tenure of office)" omitted by Act 50 of 1993, sec. 13 (w.e.f. 18.6.1993).
66. Subs. by Act 50 of 1993, sec. 13 (w.e.f. 18.6.1993) and again subs. by Act 62 of 2002, sec. 12, for sub-section "(3) Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment." and sub-section "(4) Notwithstanding anything contained in sub-section (3), a person appointment as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 1993 (50 of 1993), shall continue to hold such office as President or member, as the case may be, till the completion of his term."
Provided also that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in Sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of Sub-section (1-A) in place of the person who has resigned.

(4) Notwithstanding anything contained in Sub-section (3), a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or member, as the case may be till the completion of his term.]

17. Jurisdiction of the State Commission. - 67[(1)] Subject to the other provisions of this Act, the State Commission shall have jurisdiction -

(a) to entertain -

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees twenty lakhs but does not exceed rupees one crore; and

(ii) appeals against the orders of any District Forum within the State; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State, where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

69[(2) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction,-

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided that in such case either the permission of the State Commission is given or the opposite parties who do not reside or carry on business or have a branch office or personally works for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.]

69[17-A. Transfer of cases. - On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before the District Forum to another District Forum within the State if the interest of justice so requires.

17-B. Circuit Benches. - The State Commission shall ordinarily function in the State Capital but may perform its functions at such other place as the State Government may, in consultation with the State Commission, notify in the Official Gazette, from time to time.]
18. **Procedure applicable to State Commissions.** - [The provisions of sections 12, 13 and 14 and the rules made thereunder] for the disposal of complaints by the District Forum shall, with such modifications as may be necessary, be applicable to the disposal of disputes by the State Commission.

19. **Appeals.** - Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed:

Provided that the National Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the prescribed manner fifty per cent. of the amount or rupees thirty-five thousand, whichever is less.

19-A. **Hearing of appeal.** - An appeal filed before the State Commission or the National Commission shall be heard as expeditiously as possible and an endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its admission:

Provided that no adjournment shall be ordinarily granted by the State Commission or the National Commission, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission:

Provided further that the State Commission or the National Commission, as the case may be, shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act:

Provided also that in the event of an appeal being disposed of after the period so specified, the State Commission or the National Commission, as the case may be, shall record in writing the reasons for the same at the time of disposing of the said appeal.

20. **Composition of the National Commission** - (1) The National Commission shall consist of:

(a) a person who is or has been a judge of the Supreme Court, to be appointed by the Central Government, who shall be its President:

[Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of India.]

72. Omitted by Act 62 of 2002, sec. 15. Prior to omission section 18A read as: "18A. Vacancy in the office of the President.—When the office of the President of the District Forum or of the State Commission, as the case may be, is vacant or when any such President is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such person, who is qualified to be appointed as President of the District Forum or, as the case may be, of the State Commission, as the State Government may appoint for the purpose" ins. by Act 34 of 1991, sec. 3 (w.e.f. 15.6.1991).

73. Ins. by Act 62 of 2002, sec. 16.


75. Ins. by Act 50 of 1993, sec. 16 (w.e.f. 18.6.1993).
(b) not less than four, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely:-

(i) be not less than thirty - five years of age;
(ii) possess a bachelor's degree from a recognised university; and
(iii) be persons of ability, integrity and standing and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that not more than fifty per cent. of the members shall be from amongst the persons having a judicial background.

Explanation. - For the purposes of this clause, the expression "persons having judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:

Provided further that a person shall be disqualified for appointment, if he -

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
(b) is an undischarged insolvent; or
(c) is of unsound mind and stands so declared by a competent court; or
(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
(e) has, in the opinion of the Central Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the Central Government:

Provided also that every appointment under this clause shall be made by the Central Government on the recommendation of a Selection Committee consisting of the following, namely:-

(a) a person who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India - Chairman;
(b) the Secretary in the Department of Legal Affairs in the Government of India - Member;
(c) Secretary of the Department dealing with consumer affairs in the Government of India - Member.

[(1-A) (i) The jurisdiction, powers and authority of the National Commission may be exercised by Benches thereof.

76. Subs. by Act 62 of 2002, sec. 18, for clause "(b) four other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman:

Provided that every appointment under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following namely: —

(a) a person who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India —Chairman.
(b) the Secretary in the Department of Legal Affairs in the Government of India —Member.
(c) Secretary of the Department dealing with consumer affairs in the Government of India —Member.

77. Ins. by Act 62 of 2002, sec. 16.]}
(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it.

(2) The salary or honorarium and other allowances payable to and the other terms and conditions of service of the members of the National Commission shall be such as may be prescribed by the Central Government.

(3) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier:

Provided that a member shall be eligible for reappointment for another term of five years or up to the age of seventy years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such reappointment is made on the basis of the recommendation of the Selection Committee.

Provided further that a person appointed as a President of the National Commission shall also be eligible for reappointment in the manner provided in clause (a) of sub-section (1):

Provided also that a member may resign his office in writing under his hand addressed to the Central Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1-A) in place of the person who has resigned.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 2002 shall continue to hold such office as President or member, as the case may be, till the completion of his term.

21. Jurisdiction of the National Commission. - Subject to the other provisions of this Act, the National Commission shall have jurisdiction-

(a) to entertain-

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees eighty [rupees one crore]; and

(ii) appeals against the orders of any State Commission; and

78. The words "(including tenure of office)" omitted by Act 50 of 1993, sec. 16 (w.e.f. 18.6.1993).
79. Ins. by Act 50 of 1993, sec. 16 (w.e.f. 18.6.1993) and again subs. by Act 62 of 2002, sec. 18, for sub-section "(3) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier and shall not be eligible for re-appointment. And sub-section "(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 1993, shall continue to hold such office as President or member, as the case may be, till the completion of his term."
80. Subs. by Act 62 of 2002, sec. 19, for "rupees twenty lakhs".
(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

COMMENTS

Trucks insured—Attacked by Bodo Terrorists—Completely destroyed by fire—Provision (b) of Endorsement of Insurance policies did not cover risk complained of—Truck destroyed by acts of terrorism—Driver of truck also shot dead—National Commission fully justified in its conclusion that respondent not liable for loss suffered by appellant at hands of Bodo activities—No merit in appeal. Muralidhar Sarangi v. The New India Ass. Co. Ltd. 2000(3) SRJ 313; AIR 2000 SC 934; 2000 (3) SCC 466; 2000 (2) JT 485

Rights under original contract not given up as it was specifically provided in subsequent contract that rights under old contract stand extinguished only on payment of entire amount of Rs. 9,51,000/—Since amount not paid as stipulated by Subsequent contract—Rights under original contract still available—Could legally be enforced—Deficiency in service—Entire amount with interest paid. Lata Construction v. Dr. Rameshchandra Ramniklal Shah 2000(1) SRJ 141; AIR 2000 SC 380; 1999(9) JT 359; 2000 (1) SCC 586


Insurance policy—Assessment of—Tariffs under—Appreciation of evidence—Policy for three plants situated in same campus—Flood policy taken only for one plant—Insurance recovered premium retrospective for others as flood policy for one plant granted under mistake—Legality of—Held—Insured cannot be compelled to pay premium for which no insurance coverage taken—Refund of amount with interest directed—Cost awarded. DCM Shriram Consolidated Limited versus National Insurance Co. Ltd. [NC] 2006 (2) UC 767 : 2006 NCJ 321


"[22. Power and procedure applicable to the National Commission. - (1) The provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Commission. (2) Without prejudice to the provisions contained in sub-section (1), the National Commission shall have the power to review any order made by it, when there is an error apparent on the face of record.]

81. Ins. by Act 50 of 1993, sec. 18 (w.e.f. 18.6.1993) and subs. by Act 62 of 2002, sec. 20, for section 22. Power of procedure applicable to the National Commission.—The National Commission shall, in the disposal of any complaints or any proceedings before it, have—(a) the powers of a civil court as specified in sub-section (4), (5) and (6) of section 13; (b) the power to issue an order to the opposite party directing him to do any one or more of the things referred to in clauses (a) to (i) of sub-section of section 14, and follow such procedure as may be prescribed by the Central Government."
22-A. Power to set aside ex parte orders. - Where an order is passed by the National Commission ex parte against the opposite party or a complainant, as the case may be, the aggrieved party may apply to the Commission to set aside the said order in the interest of justice.

22-B. Transfer of cases. - On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Forum of one State to a District Forum of another State or before one State Commission to another State Commission.

22-C. Circuit Benches, - The National Commission shall ordinarily function at New Delhi and perform its functions at such other place as the Central Government may, in consultation with the National Commission, notify in the Official Gazette, from time to time.

22-D. Vacancy in the office of President. - When the office of President of a District Forum, State Commission, or of the National Commission, as the case may be, is vacant or a person occupying such office is, by reason of absence or otherwise, unable to perform the duties of his office, these shall be performed by the senior most member of the District Forum, the State Commission or of the National Commission, as the case may be:

Provided that where a retired Judge of a High Court is a member of the National Commission, such member or where the number of such members is more than one, the senior most person among such members, shall preside over the National Commission in the absence of President of that Commission.

23. Appeal. - Any person, aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 21, may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order.

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited in the prescribed manner fifty percent. of that amount or rupees fifty thousand, whichever is less.

24. Finality of orders. - Every order of a District Forum, the State Commission or the National Commission shall, if no appeal has been preferred against such order under the provisions of this Act, be final.

24-A. Limitation period. - (1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.

(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complainant satisfies the District Forum, the State Commission or the National Commission, etc.
the case may be, that he had sufficient cause for not filing the complaint within such period:

Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be records its reasons for condoning such delay.]

24-B. Administrative control - (1). The National Commission shall have administrative control over all the State Commissions in the following matters namely:

(i) calling for periodical return regarding the institution, disposal pendency of cases;

(ii) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents;

(iii) generally overseeing the functioning of the State Commissions or the District Fora to ensure that the objects and purposes of the Act are best served without in any way interfering with their quasi-judicial freedom.

(2) The State Commission shall have administrative control over all the District Fora with in its jurisdiction in all matters referred to in sub-section (1).

COMMENTS

Limitation—No period of limitation prescribed under the Act to prefer claim but that does not mean claim could be made even after unreasonably long delay—Claim ought to have been made within reasonable time—three years period prescribed as reasonable time under Limitation Act to lay claim for money. Corporation Bank & Anr. v. Navin J. Shah 2000(2) SRJ 269; AIR 2000 SC 761; 2000 (1) JT 317; 2000 (2) SCC 628

Limitation—Deficiency in service—Complainant filed in the year 2000—And possession taken in 1995 and 1996—Cause of action emanated from date of possession—No plea or application for condonation of delay—Complaint dismissed. Pushpa Builders Flat Buyers Assn. vs Pushpa Builders Ltd. (N. Com.) 2003 Current 40

25. Enforcement of orders of the District Forum, the State Commission or the National Commission. - (1) Where an interim order made under this Act is not complied with , the District Forum or the State Commission or the National Commission, as the case may be, may order the property of the person, not complying with such order to be attached.

(2) No attachment made under sub-section (1) shall remain in force for more
than three months at the end of which, if the non-compliance continues, the property attached may be sold and out of the proceeds thereof, the District Forum or the State Commission or the National Commission may award such damages as it thinks fit to the complainant and shall pay the balance, if any, to the party entitled thereto.

(3) Where any amount is due from any person under an order made by a District Forum, State Commission or the National Commission, as the case may be, the person entitled to the amount may make an application to the District Forum, the State Commission or the National Commission, as the case may be, and such District Forum or the State Commission or the National Commission may issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue.

26. Dismissal of frivolous or vexatious complaints. - Where a complaint instituted before the District Forum, the State Commission or, as the case may be, the National Commission is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand rupees, as may be specified in the order.

27. Penalties. - (1) Where a trader or a person against whom a complaint is made or the complainant fails or omit to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both:

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the District Forum or the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) All offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be.

27-A. Appeal against order passed under section 27 - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal under section 27, both on facts and on law, shall lie from -

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86. Subs. by Act 50 of 1993, sec. 20, for section 26 (w.e.f. 18.6.1993).
87. Section 27 renumbered as sub-section (1) thereof by Act 62 of 2002, sec. 23.
88. Ins. by Act 50 of 1993, sec. 21 (w.e.f. 18.6.1993).
89. Omitted by Act 62 of 2002, sec. 23. Proviso before omission read as: “Provided that the District Forum, the State Commission or the National Commission, as the case may be, may, if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment or fine, or both, for a term lesser than the minimum term and the amount lesser than the minimum amount, specified in this section.”
(a) the order made by the District Forum to the State Commission;
(b) the order made by the State Commission to the National Commission; and
(c) the order made by the National Commission to the Supreme Court.
(2) Except as aforesaid, no appeal shall lie to any court from any order of a
District Forum or a State Commission or the National Commission.
(3) Every appeal under this section shall be preferred within a period of thirty
days from the date of an order of a District Forum or a State Commission or as
the case may be, the National Commission:
Provided that the State Commission or the National Commission or the Su-
preme Court, as the case may be, may entertain an appeal after the expiry of the
said period of thirty days, if, is satisfied that the appellant had sufficient cause for
not preferring the appeal within the period of thirty days.]

CHAPTER IV
MISCELLANEOUS

28. Protection of action taken in good faith. - No suit, prosecution or other
legal proceedings shall lie against the members of the District Forum, the State
Commission or the National Commission or any officer or person acting under the
direction of the District Forum, the State Commission or the National Commission
for executing any order made by it or in respect of anything which is in good faith
done or intended to be done by such member, officer or person under this Act or
under any rule or order made thereunder.

28-A. Service of notice, etc. - (1) All notices required by this Act to be
served, shall be served in the manner hereinafter mentioned in sub-section(2).
(2) The service of notices may be made by delivering or transmitting a copy
thereof by registered post acknowledgment due addressed to opposite party against
whom complaint is made or to the complainant by speed post or by such courier
service as are approved by the District Forum, the State Commission or the Na-
tional Commission, as the case may be, or by any other means of transmission of
documents (including FAX message).
(3) When an acknowledgment or any other receipt purporting to be signed by
the opposite party or his agent or by the complainant is received by the District
Forum, the State Commission or the National Commission, as the case may be,
or postal article containing the notice is received back by such District Forum, State
Commission or the National Commission, with an endorsement purporting to have
been made by a postal employee or by any person authorised by the courier serv-

rum, the State Commission or the National Commission, as the case may be, within thirty days from the date of issue of notice.

(4) All notices required to be served on an opposite party or to complainant shall be deemed to be sufficiently served, if addressed in the case of the opposite party to the place where business or profession is carried and in case of complainant, the place where such person actually and voluntarily resides.

29. Power to remove difficulties. - (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made be laid before each House of Parliament.

(3) If any difficulty arises in giving effect to the provisions of the Consumer Protection (Amendment) Act, 2002, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of the Consumer Protection (Amendment) Act, 2002.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.

29-A. Vacancies or defects in appointment not to invalidate orders. - No act or proceeding of the District Forum, the State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

30. Power to make rules. - (1) The Central Government may, by notification, make rules for carrying out the provisions contained in clause (a) of sub-section (1) of section 2, clause (b) of sub-section (2) of section 4, sub-section (2) of section 5, sub-section (2) of section 12, clause (vi) of sub-section (4) of section 13, clause (hb) of sub-section (1) of section 14, section 19, clause (b) of sub-section (1) and sub-section (2) of section 20, section 22 and section 23 of this Act.

(2) The State Government may, by notification, make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7, clause (b) of sub-section (2) and sub-section (4) of section 8-A, clause (b) of sub-section (1) and sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, clause (hb) of sub-section (1) and sub-section (3) of section 14,
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15 and clause (b) of sub-section (1) and sub-section (2) of section 16 of this Act.


97. Subs. by Act 62 of 2002, sec. 29, for section “31. Laying of rules.—(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty 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, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”


97. Subs. by Act 62 of 2002, sec. 29, for section “31. Laying of rules.—(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty 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, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”
THE
CONSUMER PROTECTION
RULES, 1987

^[GSR 398(E), dt.15-4-1987]^  
In exercise of the powers conferred by sub-section (1) of section 30 of the Consumer Protection Act, 1986 (68 of 1986), the Central Government hereby makes the following rules, namely:—

1. **Short title and commencement**
   
   (1) These rules may be called the Consumer Protection Rules, 1987.
   
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions**
   
   In these rules, unless the context otherwise requires,—
   
   (a) ‘Act’, means the Consumer Protection Act, 1986 (68 of 1986);
   
   (b) ‘agent’ means a person duly authorised by a party to present any complaint, appeal or reply on its behalf before the National Commission;
   
   (c) ‘appellant’ means a party which makes an appeal against the order of the State Commission;
   
   (d) ‘Chairman’ means a Chairman of the Central Consumer Protection Council established under sub-section (1) of the section 4 of the Act;
   
   (e) ‘memorandum’ means any memorandum of appeal filed by the appellant;
   
   (f) ‘opposite party’ means a person who answers complaint or claim;
   
   (g) ‘President’ means the President of the National Commission;
   
   (h) ‘respondent’ means the person who answers any memorandum of appeal;
   
   (i) ‘section’ means section of the Act;
   
   (j) ‘State’ includes Union Territories also;
   
   (k) words and expressions used in the rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

2^[A. State Govts. to recognise a laboratory as an appropriate laboratory]^  
(1) For the purpose of obtaining recognition as an appropriate laboratory, the applicant shall send application, in triplicate, in the proforma prescribed by the Bureau of Indian Standards with the relevant details to the Department concerned with the consumer protection work in the State Government.

1. Published in the Gazettee of India, (Extraordinary), Part II, s. 3(i), dt. 15.4.1987.
2. Inserted by GSR 605(E), w.e.f. 30.8.1995.
(2) The State Government on receiving the application from the applicant, shall forward its two copies to the Bureau of Indian Standards to assess the suitability of the laboratory from the standards prescribed by them (Bureau of Indian Standards). The fee charged by the Bureau of Indian Standards, for this purpose, shall be paid by the applicant.

(3) The State Government on receiving the recommendations and approval of the Bureau of Indian Standards, shall notify that laboratory as an “appropriate laboratory” for the purpose of Consumer Protection Act, 1986 for a period of three years.


(1) The Central Government shall, by notification 1 in the Official Gazette constitute the Central Consumer Protection Council (hereinafter referred to as the Central Council) which shall consist of 2 [the following members, not exceeding 150, namely: ]

(a) 3 [the Minister-in-charge of Consumer Affairs in the Central Government] who shall be the Chairman of the Central Council;

(b) the Minister of State (where he is not holding independent charge) or Deputy Minister[4] [in-charge of Consumer Affairs in the Central Government] who shall be the Vice-Chairman of the Central Council;

(c) the [*] Minister in-charge of Consumer Affairs in States;

(d) eight Members of the Parliament—five from the Lok Sabha and three from the Rajya Sabha;

3[e) the Secretary of the National Commission for Scheduled Castes and Scheduled Tribes];

(f) representatives of the Central Government Departments and autonomous organisations concerned with consumer interests—not exceeding twenty;

5[fa) The Registrar, National Consumer Disputes Redressal Commission, New Delhi;]

(g) representatives of the Consumer Organisations or Consumers—not less than thirty-five;

(h) representatives of women—not less than ten;

(i) representatives of farmers, trade and industries—not exceeding twenty;

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2. Substituted by GSR 95 (E), w.e.f. 27.2.1997.
4. Omitted by GSR 95 (E), w.e.f. 27.2.1997
5. Ins. by G.S.R. 175 (E), w.e.f. 5.3.2004
(j) persons capable of representing consumer, interest not specified above—not exceeding fifteen;

(k) the [Secretary in-charge of Consumer Affairs in the Central Government] shall be the member-secretary of the Central Council.

(2) The term of the Council shall be three years.

(3) Any member may, by writing under his hand to the Chairman of the Central Council, resign from the Council. The vacancies, so caused or otherwise, shall be filled from the same category by the Central Government and such person shall hold office so long as the member whose place he fills would have been entitled to hold office, if the vacancy had not occurred.

(4) For the purpose of monitoring the implementation of the recommendations of the Central Council and to suggest the working of the Council, the Central Government may constitute from amongst the members of the Council, a Standing Working Group, under the Chairmanship of the Member Secretary of the Council. The Standing Working Group shall consist of not exceeding 30 members and shall meet as and when considered necessary by the Central Government.

4. Procedure of the Central Council

Under sub-section (2) of section 5, the Central Council shall observe the following procedure in regard to the transaction of its business:

(1) The meeting of the Central Council shall be presided over by the Chairman. In the absence of the Chairman, the Vice-Chairman shall preside over the meeting of the Central Council. In the absence of the Chairman and the Vice-Chairman, the Central Council shall elect a member to preside over that meeting of the Council.

(2) Each meeting of the Central Council shall be called by giving, not less than ten days from the date of issue, notice in writing to every member.

(3) Every notice of a meeting of the Central Council shall specify the place and the day and hour of the meeting and shall contain statement of business to be transacted thereat.

(4) No proceedings of the Central Council shall be invalid merely by reasons of existence of any vacancy in or any defect in the constitution of the Council.

(5) For the purpose of performing its functions under the Act, the Central Council may constitute from amongst its members, such working groups...

1. Subs. by G.S.R. 95 (E), w.e.f. 27.2.1997.
2. Inserted by G.S.R. 95 (E), w.e.f. 27.2.1997
as it may deem necessary and every working group so constituted shall perform such functions as are assigned to it by the Central Council.

The findings of such working groups shall be placed before the Central Council for its consideration.

(6) In connection with the journey undertaken to and fro by the non-official members for attending the meeting of the Central Consumer Protection Council or its working group, they shall be entitled to avail first class or two-tier air-conditioned class of railway accommodation by all trains (including Rajdhani Express) and claim such fare or cost of actual mode of travel, whichever is less. The non-official members from Island territories shall be entitled to, to and fro air-journey (economy class) in domestic airlines from the Islands to the nearest main-land airport and thereafter rail fare by entitled class. The non-official members who are senior citizens shall be entitled to, to and fro air-journey (economy class) in domestic airlines on availing senior citizen concessional air fare for their journeys provided the distance being travelled is 1000 kms or above. The non-official members shall be entitled to a sum of Rs. 1000 per each day of the meeting] as incidental charges to cover the expenditure towards their daily allowance, lodging, local conveyance from residence to the station/airport and from station/airport to the venue of meeting and vice-versa. Every claim made under this sub-rule shall be subject to certifying that the member will not claim any benefit from any other Central Government Ministry, Department or Organization during his visit for attending the meeting of the Central Consumer Protection Council or any of its Working Group. Local non-official members residing at the place of the venue of the meeting, shall be paid consolidated conveyance, hire charges, to the tune of Rs. 200 per diem irrespective of the classification of the city. Members of Parliament attending meetings of the Council or its Working Group shall be entitled to travelling and daily allowances at such rates as are admissible to such members.]

(7) The resolution passed by the Central Council shall be recommendatory in nature.

5. Place of the National Commission

The office of the National Commission shall be located in the Union Territory of Delhi.

1. Subs. by G.S.R. 175 (E), dated 5th March, 2004 (w.e.f. 5.3.2004.
2. Subs. for “Rs. 1000 per day” by GSR 64(E), dt. 10.2.2005, w.e.f. 10.2.2005
3. Subs. for “consolidated conveyance, hire charges and incidental charges to cover the daily allowances” by GSR 64(E), dt. 10.2.2005.
6. Working days and office hours of the National Commission

The working days and office hours of the National Commission shall be the same as that of the Central Government.

7. Seal and emblem

The official seal and emblem of the National Commission shall be such as the Central Government may specify.

8. Sitting of the National Commission

The sitting of the National Commission as and when necessary, shall be convened by the President.

9. Staff of the National Commission

The Central Government shall appoint such staff as may be necessary to assist the National Commission in its day to day work and to perform such other functions as are provided under the Act and these rules or assigned to it by the President. The salary payable to such staff shall be defrayed out of the Consolidated Fund of India.

9A. Fee for making complaints before District Forum

(1) Every complaint filed under sub-section (1) of Section 12, sub-section (1) of section 17 and clause (a) in sub-clause (i) of section 21 of the Act shall be accompanied by a fee, as specified in the table given below in the form of crossed Demand Draft drawn on a nationalized bank or through a crossed Indian Postal Order drawn in favour of the President of the District Forum, Registrar of the State Commission or Registrar of the National Commission, as the case may be, and payable at the respective place where the District Forum, State Commission or the National Commission is situated.

(2) The concerned authority referred to in sub-rule (1) shall credit the amount of fee received by it into the Consumer Welfare Fund of the respective State and where such fund is not established into the Receipt Account of the State Government and in the case of the National Commission, to the Consumer Welfare Fund of the Central Government.

<table>
<thead>
<tr>
<th>SI.No.</th>
<th>Total value of goods or services and the compensation claimed</th>
<th>Amount of fee payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td></td>
<td>District Forum</td>
<td></td>
</tr>
<tr>
<td>(1)</td>
<td>Upto one lakh rupees — For complainants who are under the below Poverty Line Holding Antyodaya Anna Yojana cards</td>
<td>Nil</td>
</tr>
</tbody>
</table>

1. Ins. by G.S.R. 175(E), dated 5th March, 2004 (w.e.f. 5.3.2004).
2. Subs. by GSR 64(E), dt. 10.2.2005, w.e.f. 10.2.2005.
(2) Upto one lakh rupees—For complainants other than Antyodaya Anna Yojana cards holders Rs. 100

(3) Above one lakh and upto five lakh rupees Rs. 200

(4) Above five lakh and upto ten lakh rupees Rs. 400

(5) Above ten lakh and upto twenty lakh rupees Rs. 500

**State Commission**

(6) Above twenty lakh and upto fifty lakh rupees Rs. 2000

(7) Above fifty lakh and upto one crore rupees Rs. 4000

**National Commission**

(8) Above one crore rupees Rs. 5000

(3) The complainants who are under the Below Poverty Line shall be entitled for the exemption of payment of fee only on production of an attested copy of the Antyodaya Anna Yojana Cards.

10. **Additional powers of the National Commission, State Commission and District Forum**

(1) The National Commission, the State Commission and the District Forum shall have power to require any person,—

(a) to produce before, and allow to be examined and kept by an officer of the National Commission, the State Commission or the District Forum, as the case may be, specified in this behalf, such books, accounts, documents or commodities in the custody or under the control of the person so required as may be specified or described in the requisition, if the examination of such books, accounts, documents or commodities are required for the purpose of this Act;

(b) to furnish to an officer so specified, such information as may be required for the purpose of this Act.

(2) (a) Where during any proceeding under this Act, the National Commission, the State Commission or the District Forum, as the case may be, has any ground to believe that any book, paper, commodity or document which may be required to be produced in such proceedings are being or may be, destroyed, mutilated, altered, falsified, or secreted, it may, by written order, authorise any officer to exercise the power to entry and search of any premises. Such authorised officer may also seize such books, papers, documents or commodities as are required for the purpose of this Act:

Provided that such seizure shall be communicated to the National Commission, the State Commission or the District Forum, as the case may be, as soon as it is made or within a period not exceeding 72 hours of making such seizure after specifying the reasons in writing for making such seizure.
(b) The National Commission, the State Commission or the District Forum, as the case may be, on examination of such seized documents or commodities, as the case may be, may order the retention thereof or may return it to the party concerned.

10A. Credit of the fine into the Consumer Welfare Fund when consumers are not identified conveniently

(1) Where an order is passed by the National Commission in exercise of the powers vested under clause (hb) of sub-section (1) of Section 14 directing the opposite party to pay such amount as determined by it on account of loss or injury suffered due to defects in goods complained against or alleged deficiency of service to a large number of consumers, who are not identifiable conveniently such sum shall be credited by the National Commission in the Consumer Welfare Fund established by the Central Government under Section 12(C) of the Central Excise Act, 1944 (1 of 1944).

(2) Any amount credited to the said Fund shall be utilized in accordance with the provisions of the Consumer Welfare Fund Rules, 1992.

10B. Number of Members in the National Commission

The National Commission shall consist of not less than four members and not more than nine members and at least one of them shall be a woman.

11. Salaries, honorarium and other allowances of the President and Members of the National Commission

(1) The President of the National Commission shall be entitled to salary, allowances and other perquisites as are available to a sitting Judge of the Supreme Court and the other members, appointed on whole-time basis, shall receive a consolidated honorarium of fifteen thousand rupees per month.

(2) The President and the members shall be entitled to travelling and daily allowances on official tours at the same rates as are admissible to Group ‘A’ Officers of the Central Government.

(2A) The President and the members of the National Commission shall be entitled to conveyance allowance of one hundred fifty rupees per day of its sitting or a sum of one thousand and five hundred rupees per month, as may be opted by them.

(3) The honorarium or the salary, as the case may be, and other allowances shall be defrayed out of the Consolidated Fund of India.

12. Terms and conditions of service of the President and Members of the National Commission

(1) Before appointment, the President and a member of the National Commission shall have to take an undertaking that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as such member.

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1. Ins. by G.S.R. 175 (E), dated 5th March, 2004 (w.e.f. 5.3.2004).
2. Subs. for “six” by GSR 64(E), dt. 10.2.2005, w.e.f. 5.3.2005.
4. Inserted by GSR 88 (E), w.e.f. 24.2.1998.
(3) Notwithstanding anything contained in sub-rule (2) the President or a member may,—

[(a) by writing under his hand and addressed to the Central Government resign his office at any time but his office shall become vacant only when such resignation is accepted by the Central Government;]

(b) be removed from his office in accordance with the provisions of Rule 13.

(4) The terms and conditions of service of the President and the members shall not be varied to their disadvantage during their tenure of office.

(5) A casual vacancy caused by resignation or removal of the President or any other member of the National Commission under sub-rule (3) or otherwise shall be filled by fresh appointment.

[(6) When the office of the President of the National Commission is vacant or a person occupying such office is by reason of absence or otherwise, unable to perform the duties of his office, the same shall, save as otherwise provided in the proviso to Section 22D be performed by the senior most member of the National Commission.]

[(7) The President or any member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organisation which has been the subject of any proceeding under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.]

[12A. Procedure for selection of members

(1) Save as otherwise provided in sub-rule (2), the process of appointment of a member shall be initiated at least three months before the vacancy arises.

(2) If a post falls vacant due to resignation or death of a member or creation of a new post, the process for filing the post shall be initiated immediately after the post has fallen vacant or is created, as the case may be.

(3) An advertisement of a vacancy inviting applications from eligible candidates may be published in leading newspapers in India or by vacancy circulars or both, as may be decided by the Central Government.

(4) After scrutiny of the applications received till the last date specified for receipt of applications, a list of eligible candidates alongwith their applications shall be placed before the Selection Committee constituted under the third proviso to sub-section (1) of Section 20.

1. Sub-rule (2) omitted by G.S.R. 175(E), dated 5th March, 2004 (w.e.f. 5.3.2004).
2. Subs. by G.S.R. 175(E), dated 5th March, 2004 (w.e.f. 5.3.2004).
3. Sub-rules (7), (8) and (9) of Rule 12, omitted and sub-r. (10) renumbered as sub-rule (7) by GSR 533 (E) w.e.f. 14.8.1991
4. Ins. by GSR 50(E), dt. 1.2.2005, w.e.f. 1.2.2005.
(5) The Selection Committee shall consider all the applications of eligible applicants referred to it.

(6) The Selection Committee may, if it considers necessary, depending on the number of candidates, short list them on the basis of merit and call such short listed candidates for personal interview to consider their suitability for the post of Member.

(7) The Selection Committee may, on the basis of its assessment made by it, recommend a panel of names of candidates for appointment as members from amongst the applicants referred to in sub-rule (5) in order of merit for the consideration of the Central Government.

(8) The Central Government shall, before seeking approval of the Appointments Committee of the Cabinet, verify or cause to be verified the credentials and antecedents of the candidates selected by the Central Government from the panel recommended by the Selection Committee and satisfy the suitability of such candidates for appointment as members.

(9) Every appointment of a member shall be subject to his medical fitness.

13. Removal of President or members from office in certain circumstances

(1) The Central Government may remove from office, the President or any member, who,

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the President or the member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) remain absent in three consecutive sittings except for reasons beyond his control.

(2) Notwithstanding anything contained in sub-rule (1), the President or any member of the National Commission shall not be removed from his office except by an order made by the Central Government on the grounds specified in clauses (d), (e) and (f) of that sub-rule and after an inquiry held by a sitting Judge of the Supreme Court nominated by the Chief Justice of India in which the President or member of the National Commission, as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

1. Added by GSR 95(E), w.e.f. 27.2.1997.
2. Inserted by GSR 95(E), w.e.f. 27.7.1997.
3. Ins. by G.S.R. 175(E), dated 5.3.2004, w.e.f. 5.3.2004.
14. Procedure to be followed by the National Commission

(1) A complaint containing the following particulars shall be presented by the complainant in person or by his agent to the National Commission or be sent by registered post, addressed to the National Commission:—

(a) the name, description and the address of the complainant;
(b) the name, description and address of the opposite party or parties as the case may be, so far as they can be ascertained;
(c) the facts relating to the complaint and when and where it arose;
(d) documents in support of the allegations contained in the complaint;
(e) the relief which complainant claims.

(1A) Every complaint under sub-rule (1) shall be accompanied by the relevant fee as is specified in Rule 9A.

(1B) Every complaint under sub-rule (1) shall be filed in quadruplicate or with such number of copies as may be required by the National Commission.

(2) The National Commission shall, in disposal of any complaint before it, as far as possible, follow the procedure and conditions including the provisions governing adjournments as laid down in Sections 12 and 13 in relation to the complaints received by the District Forum, with such modification as may be considered necessary by the Commission.

(3) On the date of hearing or any other date to which hearing could be adjourned, it shall be obligatory on the parties or their agents to appear before the National Commission. Where the complainant or his agent fails to appear before the National Commission on such days, the National Commission may in its discretion either dismiss the complaint for default or decide it on merits. Where the opposite party or its agent fails to appear on the date of hearing the National Commission may decide the complaint ex parte.

(4) The National Commission may, on such terms as it deems fit and at any stage of the proceedings, adjourn the hearing of the complaint but the complaint shall be decided, as far as possible, within a period of three months from the date of notice received by opposite party where complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities.

1. Ins. by G.S.R. 175(E), dated 5th March, 2004 (w.e.f. 5.3.2004).
2. Ins. by GSR 64(E), dt. 10.2.2005, w.e.f. 10.2.2005 as sub-r. (1A) but it was already inserted by GSR 175(E), dt. 5.3.2004, hence new insertion renumbered as (1B).
3. Subs. by G.S.R. 175(E), dated 5th March, 2004 (w.e.f. 5.3.2004).
1[(4A) In the event of a complaint being disposed of after the period specified in sub-rule (4), the National Commission shall record in writing, the reason for the delay in such disposal.]

(5) If after the proceedings conducted under sub-rule (3), the National Commission is satisfied with the allegations contained in the complaint, it shall issue orders to the opposite party or parties, as the case may be, directing him or them to take one or more of the things as mentioned in sub-section (1) of section 14. The National Commission shall also have the power to direct that any order passed by it, where no appeal has been preferred under section 23 or where the order of the National Commission has been affirmed by the Supreme Court under that section, be published in the Official Gazette or through any other media and no legal proceedings shall lie against the National Commission or any media for such publication.

1[14A. Appeals before National Commission

Every appeal filed in terms of Section 19 shall be accompanied by such amount as specified in the second proviso to the said section and such amount may be remitted in the form of a crossed Demand Draft drawn on a nationalized bank in favour of the Registrar, National Commission, payable at Delhi. The National Commission dealing with the appeals filed before them shall follow the provisions of Sections 19 and 19A as may be required to hear the appeals filed before the Commission.

Explanation.—In this rule, “nationalized bank” means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).]

15. Procedure for hearing the appeal

(1) Memorandum shall be presented by the appellant or his agent to the National Commission in person or be sent by registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible hand-writing preferably typed and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(3) Each memorandum shall be [accompanied by a crossed demand draft as referred to in Rule 14A and by a certified copy] of the order of the State Commission appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

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1. Ins. by G.S.R. 175 (E), dated 5th March, 2004 (w.e.f. 5.3.2004).
2. Subs. by G.S.R. 175 (E), dated 5th March, 2004 (w.e.f. 5.3.2004).
(4) When the appeal is presented after the expiry of the period of limitation as specified in the Act, the memorandum shall be accompanied by an application supported by an affidavit setting forth the facts on which the appellant relies to satisfy the National Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies or such number of copies of the memorandum to the Commission for official purpose.

(6) On the date of hearing or on any other day to which hearing may be adjourned, it shall be obligatory for the parties or their agents to appear before the National Commission. If the appellant or his agent fails to appear on such date, the National Commission may in its discretion either dismiss the appeal or decide ex parte on merits. If the respondent or his agent fails to appear on such date, the National Commission shall proceed ex parte and shall decide the appeal on merits of the case.

(7) The appellant shall not, except by leave of the National Commission, urge or be heard in support of any ground of objection not set forth in the memorandum but the National Commission, in deciding the appeal, may not confine to the grounds of objection set forth in the memorandum:

Provided that the Commission shall not rest its decision on any other ground other than those specified in the memorandum unless the party who may be affected thereby, has been given, an opportunity of being heard by the National Commission.

(8) No adjournment shall ordinarily be granted by the National Commission, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Commission. The National Commission may also adjourn the hearing of the appeal suomotu, on such terms as it may think fit and at any stage of the proceedings for reasons to be recorded in writing. The appeal shall be decided, as far as possible, within ninety days from the date of its admission. In the event of an appeal being disposed of after the period so specified, the National Commission shall record in writing the reasons of the same at the time of disposal of the said appeal.

(9) The order of the National Commission shall be communicated to the parties concerned free of cost.

15A. Sitting of the National Commission and signing of orders

(1) Every proceeding of the National Commission shall be conducted by the President or the seniormost member and at least two members thereof sit-
[16. Manner of deposit of amount in appeals before Supreme Court

Every appeal filed before the Supreme Court in terms of Section 23 shall be accompanied by an amount as provided in the second proviso to that section and such amount may be remitted in the form of a crossed Demand Draft drawn on a nationalized bank in favour of Registrar, Supreme Court, payable at Delhi.

Explanation.—In this rule, “nationalized bank” means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).]
CONSUMER PROTECTION REGULATIONS, 2005
G.S.R. 342(E), New Delhi, the 31st May, 2005

In exercise of the powers conferred by Section 30A of the Consumer Protection Act, 1986 (68 of 1986), the National Consumer Disputes Redressal Commission with the previous approval of the Central Government, hereby makes the following regulations, namely:

1. Short title and commencement
   (1) These regulations may be called the Consumer Protection Regulations, 2005.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions
   In these regulations unless the context otherwise requires,—
   (a) “Act” means the Consumer Protection Act, 1986 (68 of 1986);
   (b) “Consumer Forum” means a District Forum, a Consumer Disputes Redressal Commission established in a State under Clause (b) of Section 9 (hereinafter called the State Commission) or the National Consumer Disputes Redressal Commission;
   (c) “Registrar” means the head of the ministerial establishment of the Consumer Forum and exercising such powers and functions as are conferred upon him by the President of the Consumer Forum;
   (d) “rules” means the rules made under the Act;
   (e) “section” means a section of the Act;
   (f) words and expressions used in these regulations and not defined herein but defined either in the Act or in the rules shall have the same meaning respectively assigned to them either in the Act or in the rules, as the case may be.

3. Arrangements in Consumer Forum
   (1) A Consumer Forum, being not a regular Court, shall have the arrangements as to depict it distinct from a Court.
   (2) In the hall in which the Consumer Forum shall hear the parties, the dais may not be kept more than 309 cms. in height than the place earmarked for the parties to occupy.
   (3) At the dais of the hall, the President and the members of the Consumer Forum shall use the same type of chairs at the same level and these chairs need not have high backs.

4. Dress code
   (1) The President and members of every Consumer Forum while presiding over the Benches,—
   (a) shall wear simple and sober dress;
   (b) shall not wear—
(i) flashy dress or dress displays any affluence;
(ii) Jeans or T-shirts.
(iii) as if they are holding Courts as Judges of a High Court or a District Court.

(2) The Advocates shall be allowed to appear in the usual dress as prescribed by the High Court but without the gown.

5. Hearing hours

Subject to the provisions of the rules, the normal working hours of the Consumer Forum for hearing matters shall be from 10.30 a.m. to 1.00 p.m. and 2.00 p.m. to 4.00 p.m. on all working days of the Central Government in the case of the National Commission and on all working days of the State Government in the case of the State Commission and the District Forum.

6. Cause List

(1) Cause list of the Consumer Forum for the following entire week shall be made ready before the close of the working hours of the preceding week and displayed on the notice board. The cause list in respect of a Consumer Forum having a website shall also be hosted on the website.

(2) Cause list shall be split into three different parts, namely:
   (i) Admission and after notice matters;
   (ii) Matters where evidence is to be recorded;
   (iii) Final disposal matters.

(3) Every cause list shall contain the following particulars, namely:
   (1) Sl.No. (2) No. of the matter (3) Names of the parties (4) Names of the party or Counsel or agent appearing

   (4) If a date of hearing is given in the presence of parties or their agents, it shall not be a ground for non-appearance for the reason that the cause list for the concerned date does not show the matter or contains incorrect entry or there is omission on the particulars of the matters.

7. Institution of complaints, appeals and revision petitions

(1) Where a complaint is filed in District Forum or State Commission it shall be filed in three sets and where it is filed in the National Commission it shall be filed in four sets with additional sets equal to the number of opposite party(ies)/respondent(s).

(2) Every complaint shall clearly contain particulars of dispute and the relief claimed and shall also be accompanied by copies of such documents as are necessary to prove the claim made in the complaint.

8. Nomenclature to be given to the complaints, appeals and revision petitions

(1) A complaint shall hereinafter be referred to as Consumer Complaint (C.C.) instead of O.P., e.g., C.C. No. 2 of 2005.

(2) An appeal shall be referred to as F.A., Revision Petition as R.P., Execution Application as E.A., Transfer Application as T.A. and Review as RA containing the number and the year of filing.
9. Scrutiny of complaint, appeal petition and revision petition

(1) Every complaint, appeal, or revision petition shall after it is filed be numbered by the Registrar.

(2) If there is any defect in any filing of the complaint, appeal or revision petition, the particulars of such defects shall be recorded and the party or his agents shall be informed of the defects asking them for removing the defects within 15 days.

(3) In case the party disputes in the correctness of the defects pointed out the matter shall be placed before the Consumer Forum for appropriate orders.

(4) After the expiry of the time given, the matter shall, irrespective of the fact as to whether the defects have been removed or not, be placed before the Consumer Forum for appropriate orders.

(5) If the objections raised by the Registrar are substantial and are not removed within the time allowed for the purpose, those days shall not be excluded for counting the period of limitation.

(6) As required by the second proviso to Sub-section (3) of Section 12, the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

(7) In case any defect is pointed out by the Registrar, twenty-one days from the date on which such defect was removed shall be reckoned for the purpose of Sub-regulation (5).

(8) All pending complaints, appeals and revision petitions which have not come up for admission till the date of commencement of these regulations and are pending for admission for more than 21 days shall be listed immediately by the Consumer Forum for admission and not later than 21 days from the date of commencement of these regulations.

10. Issue of notice

(1) Whenever the Consumer Forum directs the issuance of a notice in respect of a complaint, appeal or revision petition, as the case may be, to the opposite party(ies)/respondent(s), ordinarily such notice shall be issued for a period of 30 days and depending upon the circumstances of each case even for less than 30 days.

(2) When there is a question of raising presumption of service, 30 days’ notice shall be required.

(3) Whenever notices are sought to be effected by a courier service, it shall be ascertained that the courier is of repute.

(4) While appointing the courier for the purpose of effecting service, security deposit may also be taken.

(5) Along with the notice, copies of the complaint, memorandum of grounds of appeal, petitions as the case may be and other documents filed shall be served upon the opposite party(ies)/respondent(s).

(6) After the opposite party or respondent has put in appearance, no application or document shall be received by the Registrar unless it bears an endorsement that a copy thereof has been served upon the other side.

11. Adjournment

(1) Every proceeding before a Consumer Forum shall be conducted as expeditiously as possible and as per the requirements of the Act.
(2) The Consumer Forum shall record the reasons for any adjournment made by it.

(3) The cost of adjournment, if asked by the opposite party or parties, shall not be less than five hundred rupees per adjournment and could be more depending upon the value and nature of the complaint as may be decided by the Consumer Forum.

(4) The complainant, appellant or petitioner, as the case may be, may also be burdened with cost unless sufficient cause is shown for seeking adjournment:

Provided that in the circumstances of a particular case, the amount of cost imposed may be less than five hundred rupees but in no case less than one hundred rupees.

(5) The cost imposed may be given to the other party or parties to defray his or their expenses or be deposited in the Consumer Legal Aid Account to be maintained by the respective Consumer Forum, as the Consumer Forum may order.

(6) If any adjournment is granted without awarding cost, the order sheet shall mention the reasons thereof.

(7) All orders adjourning the matter shall be signed by the President and members constituting the Bench and not by the Court Master or Bench Clerk.

(8) Non-availability of a lawyer who is representing the party shall not be a ground for seeking adjournment of the matter unless absence is beyond the control of the lawyer such as his sudden illness or bereavement in the family.

12. Hearing by Benches

Where a Bench, constituted by the President of the State Commission or the National Commission as provided under Section 16 or Section 20, as the case may be, does not have a member with judicial background and any complex question of law arises and there is no precedent to decide the law point, the Bench so constituted may refer the matter to the President of the State Commission or the National Commission as the case may be to constitute another Bench of which the President shall be a member.

13. Arguments

(1) Arguments should be as brief as possible and to the point at issue.

(2) Where a party is represented by a Counsel, it shall be mandatory to file a brief of written arguments two days before the matter is fixed for arguments.

(3) In case of default to file briefs, the cost shall be imposed at the same rates as laid down for grant of adjournments.

14. Limitation

(1) Subject to the provisions of Sections 15, 19 and 24A, the period of limitation in the following matters shall be as follows:

(i) Revision petition shall be filed within 90 days from the date of the order or the date of receipt of the order as the case may be;

(ii) Application for setting aside the ex parte order under Section 22A or dismissal of the complaint in default shall be maintainable if filed within thirty days from the date of the order or date of receipt of the order, as the case may be;

(iii) An application for review under Sub-section (2) of Section 22 shall be filed to the National Commission within 30 days from the date of the order or receipt of the order, as the case may be;
(iv) The period of limitation for filing any application for which no period of limitation has been specified in the Act, the rules of these regulations shall be thirty days from the date of the cause of action or the date of knowledge.

(2) Subject to the provisions of the Act, the Consumer Forum may condone the delay in filing an application a petition referred to in Sub-regulation (1) if valid and sufficient reasons to its satisfaction are given.

15. Review

(1) It shall set out clearly the grounds for review.

(2) Unless otherwise ordered by the National Commission, an application for review shall be disposed of by circulation without oral arguments, as far as practicable between the same members who had delivered the order sought to be reviewed.

16. Appearance of Voluntary Consumer Organisations

(1) Recognised Consumer Organisations have a right of audience before the Consumer Forum.

(2) An authorisation of a Voluntary Consumer Organisation may be by way of special power of attorney executed on a non-judicial paper or even on plain paper duly attested by a Gazetted Officer or a Notary Public.

(3) The Power of Attorney holder shall be entitled to engage a Counsel, if authorised to do so.

(4) A Voluntary Consumer Organisation can engage a Counsel or an Advocate of its choice or it can itself represent through one of its office bearers as per the rules governing it.

(5) In case of a complaint where the Voluntary Consumer Organisation is a complainant along with the consumer himself and the dispute affects the complainant individually, he can withdraw the complaint:

Provided that if the issue involves unfair trade practice or restrictive trade practice a Voluntary Consumer Organisation may continue to proceed with the complaint even if the complainant wishes to withdraw the same.

(6) A Consumer Forum has to guard itself from touts and busy bodies in the garb of power of attorney holders or authorised agents in the proceedings before it.

(7) While a Consumer Forum may permit an authorised agent to appear before it, but authorised agent shall not be one who has used this as a profession:

Provided that this sub-regulation shall not apply in case of advocates.

(8) An authorised agent may be debarred from appearing before a Consumer Forum if he is found guilty of misconduct or any other malpractice at any time.

17. Ex parte interim order

Any ex parte interim order issued by the Consumer Forum shall stand vacated after 45 days if in the meanwhile the objections to the interim order are not heard and disposed of.

18. Final Order

(1) Any order on the top right hand corner shall show as to when the complaint was filed and the date of the order.

(2) The cause title of the order shall contain the names of all the parties with their addresses.
(3) In the body of the order it is desirable that after mentioning the complaint or the opposite party, their names as shown in the title be mentioned and parties thereafter may not be mentioned as complainant or opposite party No. 1 or opposite party No. 2, etc.

(4) The cause title shall also clearly show if the appellant or respondent was the complainant or opposite party.

(5) The order of a Consumer Forum disposing of a matter shall be as short and precise as practicable and unnecessary long quotations from the judgments of the higher Courts or otherwise shall be avoided.

(6) When a copy of the order is sent to a party, the mode by which it is sent and the date on which it is sent shall be stamped on the last page of the order.

(7) The Consumer Forum shall pass final order invariably within fifteen days of the conclusion of the arguments.

19. Return on institution and disposal of cases

(1) A Consumer Forum is expected to dispose of at least 75 to 100 matters every month.

(2) A periodic monthly return of institution and disposal of cases shall be sent by the District Forums to the State Commission.

(3) The State Commission shall submit a period monthly return of institution and disposal of cases to the National Commission.

(4) Notwithstanding anything contained in this regulation, the President of the National Commission may, at any time, call for any return or information relating to its functioning from a State Commission or District Forums.

20. Preservation of records

(1) In the case of complaint, the record containing main files with original order sheet shall be preserved for a period five years.

(2) In the case of records of first appeal and revision petitions, it shall be preserved for three years from the date of disposal of the appeal or revision as the case may be.

(3) Immediately after the consumer complaint, first appeal or revision petition, as the case may be, is disposed of, extra sets shall be given to the parties who may use the same for filing of appeal or revision petition and in that case the necessity to summon the period from the Forums below can be dispensed with.

(4) The Registrar shall inform the parties while forwarding the certified copy of the final order, where they do not appear or in person at the time of finally disposing of the matter to arrange to collect the extra sets.

(5) A period of at least one month shall be given for the purpose of collection of records by the party and in case of default the extra sets shall be weeded out.

21. Certified copy

(1) A copy of the order is to be given to the parties free of cost as required under the Act and the rules made thereunder.

(2) In case a party requires an extra copy, it shall be issued to him duly certified by the Registry on a payment of Rs. 20/- irrespective of number of pages.

(3) A certified copy of an order shall clearly specify the date when free copy was issued, date of application, date when the copy was made ready and the date when it was so delivered to him.
(4) A fee of Rs. 20/- shall be paid for obtaining another certified copy.

(5) Any party desiring to get a certified copy of any document on the file of the Consumer Forum, may get the same on payment of certification fee of twenty rupees per copy: Provided that if any such document of which certified copy is sought, is over and above 5 pages, an extra amount of one rupee per page shall be charged over and above the fee of twenty rupees.

(6) Certified copy of any miscellaneous order passed by the Consumer Forum shall be supplied on payment of Rs. 5 per copy.

22. Inspection of records

Parties or their agents can inspect the records of any matter by filing an application payment of ten rupees as fee.

23. Filing of criminal complaint

Wherever a complaint is required to be filed by the Consumer Forum under Sub-section (5) of Section 13, the Consumer Forum may authorise its Registrar to file the complaint.

24. Practice Directions

The National Commission shall be entitled to issue practice directions from time-to-time as may be necessary for the proper conduct of the cases before Consumer Forum including prescribing forms for complaints, notices, returns, certificate to be issued to the Collector and the like.

25. Parcscha Yad-dast

Where a party appears in person and is illiterate, the Court Master or Bench Clerk shall give to that party the next date of hearing in writing.

26. Miscellaneous

(1) In all proceedings before the Consumer Forum, endeavour shall be made by the parties and their Counsel to avoid the use of provisions of Code of Civil Procedure, 1908 (5 of 1908):

Provided that the provisions of the Code of Civil Procedure, 1908 may be applied which have been referred to in the Act or in the rules made thereunder.

(2) Every State Commission and every District Forum shall take steps for its computerisation and networking.

(3) The Consumer Forum shall give proper respect and courtesy to the parties who appear in person and shall provide separate accommodation in the half for the convenience of the parties.

(4) The Consumer Forum shall not insist upon the parties to engage advocates.

(5) The Fees collected for inspection of the documents and supply of certified copies shall be deposited in the account maintained for the purpose of depositing fee for filing a complaints as prescribed by the Central Government by rules.

(6) The cases filed by or against the senior citizens, physically challenged, widows and persons suffering from serious ailments shall be listed and disposed of on a priority basis.
CONSUMER WELFARE FUND RULES, 1992

[G.S.R. 895 (E), 25th Nov., 1992]

In exercise of the powers conferred by sub-section (2) of section 37, read with section 12E of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement

(1) These rules may be called the Consumer Welfare Fund Rules, 1992.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

In these rules, unless the context otherwise requires,—

(a) "Act" means the Central Excise Act, 1944 (1 of 1944), as the case may be, the Customs Act, 1962 (52 of 1962);

(b) "Applicant" means any agency/organisation engaged in consumer welfare activities for a period of three years registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force including village/mandal/samiti level companies of consumers especially Women, Scheduled Castes and Scheduled Tribes, or any industry as defined in the Industrial Disputes Act, 1947 (14 of 1947) recommended by the Bureau to be engaged for a period of five years is viable and useful research activity which had made, or is likely to make, significant contribution in formulation of standard mark of the products of mass consumption, or State Government and includes a consumer for the purpose of reimbursing legal expenses as referred to in clause (d) of rule 8 of these rules;

(c) "Application" means an application in Form A-1, appended to these rules;

(d) "Bureau" means the Bureau of Indian Standards constituted under the Bureau of Indian Standards Act, 1986 (63 of 1986);

(e) "Central Consumer Protection Council" means the Central Consumer Protection Council established under sub-section (1) of section 4 of the Consumer Protection Act, 1986 (68 of 1986), for promotion and protection of rights of consumers;

(f) "Committee" means the Committee constituted under rule 5;

(g) "Consumer" had the same meaning as assigned to it in clause (d) of sub-section (1) of section 2 of the Consumer Protection Act, 1986, and includes consumer of goods on which duty had been paid.

1. Substituted by the Consumer Welfare Fund (Amendment) Rules, 1994, w.e.f. 27.1.1994
(h) "Consumer Welfare Fund" means the fund established by the Central Government under sub-section (1) of section 12C of the Central Excise Act, 1944 (1 of 1944);

(i) "duty" means the duty paid under the Act;

(i-a) "Proper Officer" means the officer having the power under the Act to make an order that the whole or any part of the duty is refundable;

(j) "Standard mark" shall have the same meaning as assigned to it in clause (t) of section 2 of the Bureau of Indian Standards Act, 1986 (63 of 1986);

(k) "Welfare of the Consumers" includes promotion and protection of rights of consumers;

(l) words and expressions used in the rules and not defined but defined in the Consumer Protection Act, 1986 shall have the meanings respectively assigned to them in that Act.

3. Establishment of Consumer Welfare Fund

There shall be established a Consumer Welfare Fund with the Central Government into which credits of amounts of duty and income from investment along with other monies specified in sub-section (2) of section 12C of the Central Excise Act, 1944 (1 of 1944) shall be accredited:

Provided that any amount having been credited to the Fund is ordered or directed as payable to any clamiant by orders of proper officer, appellate authority or court, shall be paid from the Fund.

4. Maintenance of Accounts and Records of Consumer Welfare Fund

Proper and separate accounts in relation to the Consumer Welfare Fund shall be maintained by the Central Government and shall be subject to audit by the Comptroller and Auditor General of India.

5. Constitution of the Committee

(1) The Committee constituted by the Central Government under sub-rule (2), shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for the welfare of the consumers, to carry out the purposes of these rules.

(2) The Committee shall consist of the following Members, namely:

[(a) The Secretary, Ministry of Civil Supplies, Consumer Affairs and Public Distribution, who shall be the Chairman of the Committee;]

1. Inserted by the Consumer Welfare Fund (Amendment) Rules, 1994, w.e.f. 27.1.1994
2. Substituted by the Consumer Welfare Fund (Amendment) Rules, 1995, w.e.f. 16.1.1995
(b) Secretary, Department of Expenditure in the Ministry of Finance who shall be the Vice-Chairman of the Committee;

(c) Chairman, Central Board of Excise and Customs in the Department of Revenue of the Ministry of Finance;

(d) Member (Central Excise) of the Central Board of Excise and Customs in the Department of Revenue of the Ministry of Finance;

[(e) Secretary/Additional Secretary of Department of Rural Development;

(f) Director General/Additional Director General, Bureau of Indian Standards;]

[(g) The Joint Secretary of Consumer Welfare Fund in the Ministry of Civil Supplies, Consumer Affairs and Public Distribution, who shall be the Member Secretary of the Committee:]

Provided that the Chairman or Vice-Chairman, as the case may be, may invite representatives of the State Government concerned and a nominee of the Consumer Co-ordination Council to the meetings as and when necessary.] 6. Procedure for conduct of business.

(1) The Committee shall meet as and when necessary, but not more than three months shall intervene between any two meetings.

(2) The Committee shall meet at such time and place as the Chairman, or in his absence the Vice-Chairman of the Committee may deem fit.

(3) The meeting of the Committee shall be prescribed over by the Chairman, and in the absence of the Chairman, the Vice-Chairman shall preside over the meetings of the Committee.

(4) Each meeting of the Committee shall be called, by giving notice in writing to every member of not less than ten days from the date of issue of such notice.

(5) Every notice of the meeting of the Committee shall specify the place and the day and hour of the meeting and shall contain statement of business to be transacted thereat.

(6) No proceeding of the Committee shall be valid, unless it is presided over by the Chairman or Vice-Chairman and a minimum of three other members are present.

1. Clauses (e) and (f) substituted by the Consumer Welfare Fund (Second Amendment) Rules, 1994, w.e.f. 16.6.1994.
3. Inserted by the Consumer Welfare Fund (Amendment) Rules, 1994, w.e.f. 27.1.1994.
7. Powers and Functions of the Committee

(1) The Committee shall have power:—

(a) to require any applicant to produce before it, or before a duly authorised Officer of the Central Government, or as the case may be, the State Government, such books, accounts, documents, instruments or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;

(b) to require any application to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers, are stated to be carried on, to a duly authorised officer of Central Government or, as the case may be, State Government;

(c) to get the accounts of the applicants audited, for ensuring proper utilization of the grant;

(d) to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump sum, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;

(e) to recover any sum due from any applicant in accordance with the provisions of the Act;

(f) to require any applicant, or class of applicants to submit a periodical report, indicating proper utilization of the grant;

(g) to reject an application placed before it on the basis of involvement of factual inconsistency, or inaccuracy in the material particulars;

(h) to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;

(i) to require Central Consumer Protection Council or the Bureau, to formulate board guidelines for considering the projects/proposals for the purpose of incurring expenditure form the Consumer Welfare Fund;

(j) to identify beneficial and safe sectors, where investments out of Consumer Welfare Fund may be made and make recommendations, accordingly.

(2) The Committee shall not consider an application, unless it has been inquired into, in material details and recommended for consideration accordingly, by the Member-Secretary.


The Committee shall make recommendations:—

(a) for making available grants to any applicant;

(b) for making available grants recommended by the Bureau for activities relating to standard marks, which may be considered essential by the Central Government, for the welfare of the consumers;

(c) for investment of the money available in the Consumer Welfare Fund;

(d) for making available grants ['on a selective basis'], for reimbursing legal expenses incurred by a complainant, or class of complainants in a consumer dispute, after its final adjudication;

(e) For making available grants for any other purpose recommended by the Central Consumer Protection Council [as may be considered appropriate by the Committee.]

1. Substituted by the Consumer Welfare Fund (Amendment) Rules, 1995, w.e.f. 27.1.1994

2. Substituted for "as may be specified by Central Government to be necessary and expedient for the welfare of consumers" by Consumer welfare Fund (Amendment) Rules, 1994, w.e.f. 27.1.1994
FORM A1
(Rule 8 of the Consumer Welfare Fund Rules, 1992)

Important: Please fill up this form, with correct details as required, based on true state of affairs without suppression of any material information which, if resorted to, shall entitle prosecution under the Act.

1. Name and full postal address of the applicant
2. Status of the applicant under clause (b) of rule 2
3. Date of establishment
4. Whether registered under the Societies Registration Act, 1860 (21 of 1860) or any other relevant Act
5. If yes, number and year of registration (Attested copy of registration certificate to be enclosed)
6. Whether the organisation is of national/State level
7. Number of Managing Committee members together with list of names, addresses and occupation of the office bearers
8. Brief details of organisation, objectives and activities during the last three years
9. Purpose for which the amount is required (State the details of the project and its proposed implementation)
10. Required amount of grant, itemwise details under non-recurring/recurring to be enclosed
11. Time schedule of the activities arranged
12. The total amount incurred/invested by the applicant, or likely to be incurred by the applicant
13. Sources of funding of balance amount whether the organisation is getting financial assistance from any other official/non-official source. If yes, give details
14. Copies of the following documents to be attached
   (i) Constitution of the organisation and Articles of Association.
   (ii) Last Annual Report and audited statement of account.

DECLARATION
(To be signed by the applicant or its authorised agent)

The particulars here in before given are true and correct. No materials has been suppressed. It is certifed that I/we have read the guidelines, terms and conditions governing the scheme and undertake to abide by them on behalf of our organisation/institution. The financial assistance, if provided, shall be put to the declared use for promotion and protection of rights of consumers, or for standard marks (strike out whichever is inapplicable).

Dated......

1. Substituted by Consumer Welfare Fund (Amendment) Rules, 1994, w.e.f. 27.1.1994
Station..... Applicant
To
Member-Secretary,
Committee (Consumer Welfare Fund).
Krishi Bhawan,
New Delhi.

RECOMMENDATION OF MEMBER-SECRETARY
Details as furnished in the application have been verified in consultation with Ministry/Department of........agency, who is/are administratively concerned in the matter, and found to be correct/incorrect. The claims of the applicant are recommended for consideration by the Committee (Please give reasons in support of your recommendation).

Member-Secretary
Committee (Consumer Welfare Fund)

RECOMMENDATION OF THE COMMITTEE
Recommended for grant of Rs......(Rupees.........in words) from the Consumer Welfare Fund, as discussed in the meeting held on.....(date)

Chairman
Committee
1008 Cases & Materials on Consumer Law

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(5) nLrkostksa;ds;f;ujh;kkkv;vk;Sj;izekh;krizfr;ksa;ds;iznk;ds;sf;y,;lax;ghr;Qhj;ds;an;zh;j;ld;k];j;k;
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FACTS YOU MUST KNOW ABOUT CONSUMER PROTECTION

YOUR RIGHTS AS A CONSUMER

1. RIGHT OF SAFETY
2. RIGHT TO BE INFORMED
3. RIGHT TO CHOOSE
4. RIGHT TO SEEK REDRESSAL
5. RIGHT TO BE HEARD
6. RIGHT TO CONSUMER EDUCATION

YOUR DUTIES AS A CONSUMER

* INvariABLY OBTAIN CASH MEMO FOR ITEMS PURCHASED.
* READ CAREFULLY DETAILS INSCRIBED ON THE PACKET.
* WHILE PURCHASING THE ITEM.
* GIVE PRIORITY TO ISI/AGMARK ITEMS.
* DO NOT HESITATE TO FILE COMPLAINANT IN CASE OF
* DEFICIENCY IN SERVICES OR DEFECTS IN GOODS.

SALIENT FEATURES OF THE CONSUMER PROTECTION ACT, 1986

We are all consumers in one way or the other. Since 1986 we enjoy a right to seek legal redressal of our grievances as a consumer through a 3-tier justice system. For seeking redressal of grievances through this system, you should know the following facts.

Who is a Consumer:

A consumer is one who buys any goods or avails of any services for a consideration. For a consideration means that you pay some amount in exchange of which you get the goods or the services. If there is some defect in the goods or deficiency in service, you can seek redressal under Consumer Protection Act (CPA) 1986. Under this act, the agency to dispense remedy is the consumer court. These courts with quasi-judicial status exist at District, State and National levels and are respectively called District Consumers Forum, State Commission and National Commission for the redressal of grievances of consumers.

If you wish to file a case in a consumer court, you have to carefully examine the following points.

What is defect?

Any fault, imperfection, shortcoming in the quality, quantity, potency, nature and manner of performance.

What is Deficiency?

Fault, imperfection, shortcoming, inadequacy in quality, nature and manner of performance.
What are services?
Banking, insurance, financing, transport, processing, electricity and other energy sources, board & loading, housing construction, amusement, purveying a news/information, doctors/nursing homes/hospitals and lawyers (except when the services are free). Examining bodies are not covered.

Grounds for complaint:
You can file a complaint on one or several of the following grounds:
1. Defect in goods
2. Deficiency in services
3. Restrictive Trade practice and Unfair Trade practice as defined in MRTP Act.

Who can file a complaint?
Following can file a complaint:
1. An individual consumer
2. Recognized consumer bodies
3. A group of consumers with same interest
4. Central or State Governments.

What are the time limits?
1. A complaint must be filed within TWO years of arising of the cause.
2. An appeal must be filed within 20 days of the order.

Pecuniary limits:
A Complaint involving claims up to 20 lakhs can be filed in the District Consumer Forum. For claims from 20 lakhs to 1 crore, the complaint is to be filed in the State Commission. If the value of the claim exceeds 1 crore, the case can only be filed in the National Commission.

Fee for filing complaints:

District Consumer Forum:
- Upto 1 lakh - Rs. 100 (No fee from persons covered under antodaya scheme)
- From 1 lakh to 5 lakh - Rs. 200
- From 5 to 10 lakh - Rs. 400
- From 10 to 20 lakh - Rs. 500

State Commission:
- From 20 to 50 lakh - Rs. 2000
- From 50 lakh to 1 crore - Rs. 4000

National Commission:
- Above one crore - Rs. 5000
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Cases & Materials on Consumer Law

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CONSUMER

SYNOPSIS

- Applicability
- Consumer
- Complaint
- Pecuniary Jurisdiction
- District Forums
- State Commission
- Appeals
- Jurisdiction
- National Commission
- Appeal to Supreme Court


The Consumer Protection Act, 1986 seeks to provide for better protection of the interests of Consumers and for the purposes to make provisions for the establishment of consumer councils and other authorities for the settlement of consumer disputes and for matters connected therewith.

It seeks to promote and protect the rights of consumers, such as –

(a) The right to be protected against marketing of goods and services which are hazardous to life and property;

(b) The right to be informed about the quality, quantity, potency, purity standard and price of goods or services so as to protect the consumer against unfair trade practice.

(c) The right to be assured wherever possible access to variety of goods and services at competitive price.

(d) The right to be heard and to be assured that Consumer interest will receive due consideration at appropriate forums.

(e) The right to seek redressal against unfair or restrictive trade practices or unscrupulous exploitation of consumers; and

(f) Right to consumer education.

Applicability: The Consumer Protection Act applies to all goods and services whether in Private, Public or Cooperative Sector.

Consumer: “Consumer” has been defined in clause (d) of Section 2(1) of the Act. It includes any person who consumes goods or services.
Complaint: “Complaint” as per clause (c) of Section 2(1) of the Act means any allegations in writing made by a complainant in regard to any one or more matters set out in the said clause.

Pecuniary Jurisdiction: Section 11(1) of the Act deals with the pecuniary jurisdiction.

District Forums: It provides that the District Forums will have the jurisdiction to entertain complaints where the value of goods or services and the compensation, if any, claimed does not exceed Rs. Twenty Lakhs.

State Commission: The State Commission shall have jurisdiction to entertain complaints where the value of the goods or services and compensation if any, claimed exceeds Rs. Twenty Lakhs but does not exceed Rs. One Crore.

Appeals: The appeals against the order of the District Forums within the State shall lies to the State Commission.

Jurisdiction: The State Commission is vested with –

(i) Original Jurisdiction
(ii) Appellate Jurisdiction and
(iii) Revisional Jurisdiction (S. 17)

National Commission: The National Commission shall have jurisdiction to entertain complaints where the value of the goods or services and compensation if any, exceeds Rs. One Crore and appeals against the orders of any State Commission.

Jurisdiction: The National Commission shall have –

(i) Original Jurisdiction
(ii) Appellate Jurisdiction and
(iii) Revisional Jurisdiction. (S. 21)

Appeal to Supreme Court: Any person aggrieved by the order made by the National Commission may prefer an appeal against such order to the Supreme Court within thirty days from the date of the said order. (S. 23)

Complaint by member of co-operative Society: As a member of a co-operative society as a consumer he can file the complaint regarding any deficiency in providing any service by the cooperative society under the Consumer Protection Act though he has a right to file the complaint under the Cooperative Societies Act. A.R.K.B.N.S. Samiti Ltd. vs. Registrar Co-op. Societies, Rajasthan, 1995 AIHC 1084

Consumer Forum – Entertainability of Complain: The decisive test is not the complicated nature of the questions of fact and law arising for decision. The anvil on which entertainability of a complaint by a Forum under the Act to be determined is whether the questions, though complicated they may be, are capable of being determined by summary enquiry i.e. by doing away with the need of a detailed and complicated method of recording evidence. It has to be remembered that the fora under the Act at every level are headed by experienced persons. The National Commission is headed by a person who is or has been a Judge of the Supreme Court. The State Commission is headed by a person who is or has been a Judge of the High Court. Each District Forum is headed by person who is, or has been, or is qualified to be a District
Judge. Mere complication either of facts or of law cannot be a ground for the denial of hearing by a Forum under the Act. CCI Chambers Co-op. Housing Society Ltd. vs. Development Credit Bank Ltd., 2003 AIR SCW 5887 : 2003(7) SCC 233

**Consumer Forum – Jurisdiction – Misfeasance is Public Office – Viz. deficiency of service by Development Authority:** The Consumer Protection Act has a wide reach and the Commission has jurisdiction even in cases of service rendered by statutory and public authorities. Such authorities become liable to compensate for misfeasance in public office i.e. an act which is oppressive or capricious or arbitrary or negligent provided loss or injury is suffered by a citizen. The word compensation is of a very wide connotation. It may constitute actual loss or expected loss and may extend to compensation for physical, mental or even national sufferings insult or injury or loss. The Consumer Protection Act enables a consumer to claim and empower the Commission to redress any injustice done. The Commission or the Forum must determine that such sufferance is due to mala fide or capricious or oppressive act. It can then determine amount for which the authority is liable to compensate the consumer for his sufferance due to misfeasance in public office by the officers. Such compensation is for vindicating the strength of law. It acts as a check on arbitrary and capricious exercise of power. It helps in curing social evil. It will hopefully result in improving the work, culture and in changing the outlook of the officer/public servant. No authority can arrogate to itself the power to act in a manner which is arbitrary. Matters which require immediate attention should not be allowed to linger on. The consumer must not be made to run from piller to post. Where there has been capricious or arbitrary or negligence exercise or non-exercise of power by an officer of the authority, the Commission/Forum has a statutory obligation to award compensation. If the Commission/Forum is satisfied that a complainant is entitled to compensation for loss or injury or for harassment or mental agony or oppression, then after recording a finding it must direct the authority to pay compensation and then also direct recovery from those found responsible for such unpardonable behaviour. Ghaziabad Development Authority vs. Balbir Singh, 2004 AIR SCW 2362 (A) : 2004(3) Scale 671.

**Compensation and Interest – Misfeasance in public office – Deficiency of service by Development Authority:** The power and duty to award compensation does not mean that irrespective of facts of the case interest can be awarded in all matter at a uniform rate of 18% per annum. What is being awarded is compensation i.e. a recompense for the loss or injury. It therefore necessarily has to be based on a finding of loss or injury and has to correlate with the amount of loss or injury. Thus the Forum or the Commission must determine that there has been deficiency in service and/or misfeasance in public office that is by Development Authority which has resulted in loss or injury. No hard and fast rule can be laid down. However a few examples would be where an allotment is made, price is received/paid but possession is not given within the period set out in the brochure. The Commission/Forum would then need to determine the loss. Loss could be determined on basis of loss of rent which could have been earned if possession was given and the premises let out or if the consumer has had to stay in rented premises then on basis of rent actually paid by him. Along with recompensing the loss the Commission/Forum may also compensate for harassment/injury both mental and physical. Similarly, compensation can be given if after allotment is made and there
has been cancellation of scheme without any justifiable cause. Compensation cannot be
the same in all cases irrespective of the type of loss or injury suffered by the Consumer.
The National Forum has been awarding interest at a flat rate of 18% per annum irre-
spective of the facts of each case which, is unsustainable. Award of compensation must
be under different separate heads and must vary from case to case depending on the
facts of each case. It is clear that in all these cases interest is being awarded as and by
way of compensation/damages. Whilst so awarding it must be shown that there is rela-
tionship between the amount awarded and the default/unjustifiable delay/harassment. It
is thus necessary that there be separate awards under each such head with reasons why
such award is justified. However, the principle that interest must be granted at the
current rate of interest is only applicable where the proceedings are for recovery of debt
or damages. They apply where a refund of amount is being claimed and the direction is
to refund amounts with interest. The principles which govern grant of interest do not
apply to grant of compensation. For this reason also it becomes necessary to consider
facts and damage/compensation under various heads. Normally in cases of refund inter-
rest will be payable from the date the monies were deposited with the body till they are
returned either by payment to that party or deposited in Court. In cases where compen-
sation is directed to be paid, the Commission/Forum must direct payment within a
particular period and further direct that if payment is not made within that time the
authority will also pay interest. Such interest must be based on the current rate of
interest. Ghaziabad Development Authority vs. Balbir Singh, 2004 AIR SCW 2362 (B)
: 2004(3) Scale 671.

Deficiency in service : Respondent applied to appellant for payment of his provi-
dent fund—Appeal to Supreme Court contending that facilities provided by scheme not
‘service’—Nor respondent ‘Consumer’—Scheme clearly and unambiguously indicate that
it is service within meaning of Section 2(1) (o) and member consumer within meaning of
Section 2(1)(d) of the Act—Services rendered under scheme not free of charge—Scheme
Service under the act—State Commission and National Commission rightly held that
Act applicable in case of scheme on ground that its member ‘consumer’ under Section
2(1)(d) and scheme ‘service’ under Section 1(o). Regional Provident Fund Comm. vs.
JT 70 : 2000 SCC (L&S) 37

MODEL FORM
IN THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM

Consumer Complaint No. ............ of ............
Consumer Complaint No. ............ of ............
Versus
............ Opposite Party

To

The Hon’ble President and His Companion Members of the District Forum.
Sir,

The Complainant abovenamed respectfully submits as under:

(State herein full facts)

That the Forum has jurisdiction to entertain the complaint in terms of Section 11 of the Consumer Protection Act, 1986 as the value of goods/services and the compensation claimed in Rs. ...........

That the cause of action accrued at ............ within the jurisdiction of the Forum.

Prayer: It is most respectfully prayed that this Hon’ble Forum may be pleased to allow the complaint and pass such order or orders as it may deem fit and proper in the circumstance of the case.

Complainant

Verification: I ............ do hereby solemnly declare and state that the particulars stated above are true to the best of my knowledge and belief and no part of it is false and nothing has been concealed therefrom.

Verified at .......... on this ........... day of .........

Deponent

SPECIMEN OF NOTICE, COMPLAINT, AFFIDAVIT AND REPLY

NOTICE FOR INTIMATION OF DEFECTIVE GOODS

BEFORE FILING THE COMPLAINT

Name.................................................................................................................................

(Trader, firm, dealer, company, etc.)

Address..................................................................................................................................................

In re: (Mention the goods/service complained of giving details)

Dear Sir,

This is to bring to your kind notice that I had purchased................from your...................for a consideration of Rs..............paid in cash vide your cash memo/ Receipt/Invoice No.......................(or through cheque No........... dated............drawn on...............bank for a sum of Rs............

The said goods are suffering from the following defects:

(i) ......................

(ii) ......................etc.

I have reported the above matter to you several line (give reference of earlier letters, if any) but despite all my efforts you have not made good the defect in the goods (or deficiency in services) which is indeed regrettable and highly unacceptable. On account of your aforesaid dereliction of duty and failure and neglect to rectify the same I have suffered losses/incurred..............................expenses.................................................(give details)

which you are liable to pay to me.

You are hereby finally called upon to—
(i) remove the said defects in the goods; and/or
(ii) replace the goods with new goods; and/or
(iii) return the price/charges paid
(iv) pay compensation for financial loss/injury/interest suffered due to your negligence............. (give details)
in the sum of Rs..................with interest @...........% per annum within ..............
days of the receipt of this notice failing which I shall be free to initiate proceedings against you for redressal of my aforesaid grievances and recovery of the aforesaid amount such proceedings, both civil and criminal as prescribed by law, besides filing a complaint under the statutory provisions of The Consumer Protection Act, 1986 exclusively at your own risk, cost, responsibility and consequences which please note.

Sd/-

............... 

Place :........
Dated :.......
the complainant as cost of pursuing the complaint. The whole of the amount was to be paid within two months from the date of receipt of a copy of the order of the Forum. In case the said order was not complied with by the Opposite Parties within the said period, the whole of the amount calculated up to the date of passing of the said order was to fetch interest at the rate of 24% per annum from the date of the said order till payment. The said order of the Forum is annexed hereto and marked as annexure-I.

3. The applicant-complainant sent a copy of the said order of the Forum to the Opposite Party through his Advocate on the 11th August, 1999 for compliance under certificate of Posting but the opposite party has failed and neglected to comply with the said order of the Forum till the filing of this execution application. A photo-copy each of the letter and the Certificate of Posting is annexed hereto and marked as Annexure-II.

It is therefore most respectfully prayed that this Hon’ble Forum may in the interest of justice may order execution of the said order by invoking powers vested in the Forum under Section 25 of the Consumer Protection Act, 1986 against the opposite party.

And to pass such order or orders as this Hon’ble Forum may deem fit and proper in the circumstances of the case.

Complainant

Through

Advocate

Place :

Date :

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM

Complaint No. .......... of ..........

.......... Complainant

versus

.......... Opposite Party

I .......... son of .......... do hereby solemnly affirm and declare as under

1. That I am .......... and being conversant with the facts of the case, am competent to swear this affidavit.

3. That we were allotted control No. .......... Dealer/priority Registration No. .......... vide Receipt No. .......... and the dealer’s name was mentioned as .......... therein.

4. That we by our letter dated .......... intimated the opposite party No. .......... that we were no longer interested to purchase PEUGEOT 309 Car and requested the opposite party No. 1 to cancel registration and refund the application money of Rs. .......... with interest thereon.

5. That since we did not receive any reply to our letter dated .......... requesting the opposite party No. 1 to refund the money by instalment, a legal notice was sent through our Advocate on .......... by Registered acknowledgement due demanding payment of Rs. .......... with interest at the rate of 24 percent per annum.

6. That the opposite parties neither replied to the said legal notice nor refunded the amount of Rs .......... 

7. That the complaint was filed before the District Forum on .......... and the opposite parties in spite of notices sent by the District Forum has not refunded the said amount of Rs. .......... 

8. That the act of the opposite parties in not refunding the amount of Rs. .......... constitutes a deficiency in service and we are entitled to refund of the said amount with interest at the rate of nine percent per annum upto the date of cancellation and at 24 percent from the date of cancellation till the realisation of the amount. Since we have suffered mental agony and inconvenience suitable compensation in this regard may also be awarded.

Deponent

Verification : Verified at .......... on this .......... day of .......... that the contents of the above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Deponent

COMPLAINT BEFORE THE HON’BLE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM AT .......... 

OR

BEFORE THE HON’BLE STATE CONSUMER DISPUTES REDRESSAL COMMISSION AT ................. 

OR

BEFORE THE HON’BLE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION AT NEW DELHI
Complaint No..................of 20.......in the matter of :

(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)................Complainant

Versus

(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)................Opposite

Party/Parties

COMPLAINT UNDER SECTION 12/17/21 OF THE CONSUMER PROTECTION ACT, 1986

RESPECTFULLY STATE :

(1) **Introduction**

(In this opening paragraph the complainant should give his introduction as well as that of the opposite party/parties.)

(2) **Transaction**

(In this paragraph complainant should describe the transaction of complained of i.e. particulars and details goods/services availed; items of goods/kind and nature of service; date of purchase of goods/availing of service; amount paid as price/consideration, full or in part towards the goods/service; Photocopies of the bill/cash memo/voucher so receipt should be attached and properly marked as Annexure — A,B,C or 1,2,3 and so forth.)

(3) **Defect/deficiency**

(In this paragraph complainant should explain the grievance i.e. whether the loss or damage has been caused by some unfair trade practice or restrictive trade practice adopted by any trader or there is some defect in the goods or there has been deficiency in service or the trader has charged excessive price for the goods. One should mention the nature of unfair trade practice adopted by the trader i.e. relating to the quality of goods/services; sponsorship; warranty or guarantee for such period promised. The nature and extent of defects in goods should be explained and so should the deficiency in service. In case of excessive price one should clear the details of actual price fixed by or under any law for the time being in force or as set out on goods and their packing vis-a-vis the price charged by the trader. Complaint can also be filed against offer for sale of goods hazardous to life and safety when used. You should narrate your grievance and rest assured it is being read/heard by compassionate and pragmatic judges. Photocopies of relevant documents must be attached.)

(4) **Rectification**

(In this paragraph complainant should highlight what attempts were made by him to set things right i.e. personal visits or negotiations; communication in writing if any; whether any legal notice was got served and/or whether he has approached any other agency for redressal like M.R.T.P. Commission, Civil or Criminal Court of competent jurisdiction; the stage of its proceedings, its outcome, if any, alongwith copies (certified preferably) of such proceedings. The nature of response got from the trader when irregularities were brought to his notice, should also be given here.)

(5) **Legal aspects**

(In this paragraph reference may be made to any other law or rules or regulations of
particular procedure which is applicable to the case and/or which has been violated by
the trader and consumer’s rights under the same. There are incidental statutory obliga-
tions, which traders must fulfil and in case of their failure to do so the case in prima facie
made out and Forum would take cognizance).

(6) Evidence
(In this paragraph complainant should give details of documents and/or witnesses
he will rely upon to substantiate his case. The documents attached as Annexures as
stated above may be incorporated in a proper list and a list of witnesses (if any) may be
filed similarly). The annexures should be attested as “True Copy”.

(7) Jurisdiction
(In this paragraph complainant should liquidate the claim in the complaint i.e. upto
20 lacs; 20 lacs to 1 crore; or above and set out the pecuniary jurisdiction of the Forum/
State Commission/National Commission, as the case may be. The territorial Jurisdic-
tion should be highlighted to obviate any formal objection.)

(8) Limitation
That the present complaint is being filed within the period prescribed under Section
24A of the Act.

(9) Reliefs sought
(In this paragraph complainant should describe the nature of relief he wants to
claim i.e. for removal of defects in goods or deficiency in service; replacement with new
goods; return of the price or charges etc. paid and/or compensation on account of
financial loss or injury or detriment to his interest occasioned by negligence of the oppo-
site party and elucidate how you have calculated the amount of compensation claimed).

(10) Prayer
It is, therefore, most respectfully prayed that this Hon’ble Forum/Commission may
kindly be pleased to .................... (Details of reliefs which complainant wants the
Court to grant)

Place:........
Dated:......

COMPLAINANT
Through........
(Advocate or Consumer Association, etc.)

VERIFICATION
I............., the complainant above named. Do hereby solemnly verify that the con-
tents of above complaint are true and correct to the best of my knowledge, no part of it
is false and no material has been concealed therein.

Verified this.............day of.............20.......at......

COMPLAINANT

Please See: Although it is not compulsory, but complainant may file an affidavit
in support of the complaint which adds to the truth and veracity of allegations and gives
credibility to the cause of action. It need not be on a Stamp paper but one should get it
attested from an Oath Commissioner appointed by a High Court. The format is as
usual.
AFFIDAVIT IN SUPPORT OF COMPLAINT

BEFORE THE HON'BLE................
Complaint No....of 20........in the matter of:...............

...............Complainant
Versus
...............Opposite party

AFFIDAVIT

Affidavit of Sh .................... S/o. Sh ................. aged .....................Years, resi-
dent of.........................

I, the above named deponent do hereby solemnly affirm and declare as under:—

(1) That I am complainant in the above case, thoroughly conversant with the facts
and circumstances of the present case and am competent to swear this affidavit.

(2) That the facts contained in my accompanying complaint, the contents of which
have not been repeated herein for the sake of brevity may be read as an integral part of
this affidavit and are true and correct to my knowledge.

Deponent

VERIFICATION

I, the above named deponent do hereby solemnly verify that the contents of this
affidavit are true and correct to my knowledge and belief, no part of it is false and
nothing material has been concealed therein.

Verified this...............day of.................20............at...............

DEPONENT

IN THE STATE CONSUMER DISPUTES REDRESSAL COMMISSION

(Original Jurisdiction)

Consumer Complainant No. ............ of ............

............... Complainant
versus
............... Opposite Party

The Hon'ble President and His Companion Members of the State Commission.

Sir,

The Complainant above named respectfully submits as under:

(Set out full facts)

That this Hon'ble Commission has jurisdiction to entertain the complaint in terms
of Section 17 of the Consumer Protection Act, 1986 as the value of goods/services and
the compensation claimed is Rs. ............
That the cause of action accrued at .......... within the jurisdiction of this Hon'ble Commission.

**Prayer** : It is most respectfully prayed that this Hon'ble Commission may be pleased to allow the complaint and pass such order or orders as the commission may deem fit and proper in the circumstances of the case.

Complainant

**Verification** : I .......... do hereby solemnly declare and state that the particular stated above are true to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom verified at .......... on this .......... day of ..........

Deponent

**IN THE STATE CONSUMER DISPUTES REDRESSAL COMMISSION**

(Appellate Jurisdiction)


.......... Appellant

versus

.......... Respondent

To,

The Hon'ble President and His Companion Members of the Commission.

Respectfully Showeth, (State herein full facts)

**Prayer** : It is most respectfully prayed that this Hon'ble Commission may be pleased to allow this appeal and set aside the order of the District Forum .......... and pass such other order or orders as it may deem fit and proper.

Appellant

**IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, NEW DELHI**

(Original Jurisdiction)

Consumer Complaint on .......... of ..........

.......... Complainant

versus

.......... Opposite Party

To

The Hon'ble President and His Companion Member of the National Commission

Respectfully Showeth:
That this Hon’ble Commission has jurisdiction to entertain the complaint in terms of Section 21 of the Consumer Protection Act, 1986 as the value of goods/services and the compensation claimed is Rs. ............

**Prayer:** It is most respectfully prayed that this Hon’ble Commission may be pleased to allow this complaint and pass such other order or orders as it may deem fit and proper in the circumstances of the case.

**Verification:** I ............ do hereby solemnly declare and state that the particulars stated above are true to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified at ............ on this ............ day of ............

Deponent

---

**IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION AT NEW DELHI**

(Appellate Jurisdiction)

Appeal No. ............

Appeal under Section 19 of the Consumer Protection Act, 1986 from the order of the State Commission ............

............... Appellant

versus

............... Respondent

To,

The Hon’ble President and His Companion Members of the National Commission

Respectfully Showeth:

(State herein full facts)

**Prayer:** It is most respectfully prayed that this Hon’ble Commission may be pleased to allow this appeal and set aside the order of the State Commission and pass such other order or orders as it may deem fit and proper.

Appellant

Place:

Date:
REPLY BY THE TRADER TO THE COMPLAINT
Before The Hon’ble..................Consumer Disputes
                     Redressal Forum/Commission At.............
                        Complaint No.........of 20.........In the Matter of:
                       .....................Complainant
                     Versus
                       .....................Opposite Party

DATE OF HEARING.............

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS TO THE COMPLAINT
OF THE COMPLAINANT

RESPECTFULLY SHOWETH:

Legal Objections:

1. That the present complaint is wholly misconceived, groundless and unsustainable
   in law and is liable to be dismissed as such. The transaction in question was without any
   consideration and free of charge.

2. That this Hon’ble Court has no jurisdiction to entertain and adjudicate upon the
   dispute involved in the complaint in as much as it is not a consumer dispute and does
   not fall within the ambit of the provisions of the Consumer Protection Act, 1986, here-
   inafter called the said Act and is exclusively triable by a Civil Court and as such the
   complaint is liable to be dismissed summarily on this ground alone.

3. That the dispute raised by the complainant in the present complaint is manifestly
   outside the purview of the said Act and in any event, the Act is in addition to and not in
   derogation of the provisions of the ...... Act. The proceedings initiated by the complain-
   ant under the Act are non est, null and void and without jurisdiction.

4. That the definitions of ‘Complainant’, ‘Complaint’ ‘Consumer Dispute’ and
   ‘Service’, as defined in Section 2(1) of the said Act do not cover the claims arising under
   the present dispute and that from the aforesaid definitions, the complainant is not
   ‘consumer’ and the controversy involved in the complaint is not a ‘consumer dispute’.

5. That the present complaint is baseless and a abuse of process of law only to
   harass and blackmail the answering respondent.

6. That the complainant has no locus standi to initiate the present proceedings.

7. That the complaint is bad for non-joinder of necessary and proper party and is
   liable to be dismissed.

8. That the complainant has already filed a Civil Suit for.......in a court of compe-
   tent jurisdiction which is pending for disposal in the Court of.......and the present com-
   plaint has become infructuous.

9. That the present complaint is barred by limitation.

10. That this Hon’ble Forum/Commission has no territorial or pecuniary jurisdiction
    prescribed by Section 11(1) Section 17(1)(a)(i)/Section 21(a)(i) of the Act.
11. That the present complaint is frivolous and vexatious and liable to be dismissed under Section 26 of the Act.

12. That the present complaint has not been properly verified.

Other Grounds:

In this paragraph respondent must reply each and every allegation made and contention raised by the complainant, factual and legal as well. In case one has already made good the defect or deficiency, elucidate steps taken. One may have, inter alia, following goods defences as well:

1. That the transaction entered between the parties to the above dispute is a commercial one and the complainant cannot claim any relief from this authority in as much as ........

(give details)

2. That the complainant had purchased the goods as a seller/retailer/distributor etc. for consideration of resale and as such the complaint is barred to move this Hon’ble Court for the alleged defect/deficiency etc. in as much as ........

(give details)

3. That the complainant has already availed the warranty period during which the answering respondent has repaired/replaced the goods in question. The complainant is thus legally estopped from enforcing this complaint or to take benefit of his wrong.

4. That the present complaint is an exaggeration beyond proportion despite the fact that the complainant is himself responsible for delay and laches in as much as he has on several occasions changed his option for class of goods/type of allotment scheme of flats/model of vehicle etc........

(give details)

5. That the answering respondent is well within his rights to charge extra price for the subject-matter of the above dispute in as much as time was not the essence of delivery thereof. The complainant is liable to pay the increased price w.e.f....on account of escalation due to excise duty/budgetry provisions etc. in as much as ..........

(give details)

6. That the complainant has accepted the goods and/or service towards repair/replacement etc. without protest and the present complaint is merely an after thought.

7. That without prejudice the answering respondent as a gesture of goodwill is prepared to ..........(give details of rectification, if any, which can be done in case of minor or tolerable problems to avoid harassment to consumer and litigation problems)

The allegations of defect/default/negligence and/or deficiency in service are wholly misconceived, groundless, false, untenable in law besides being extraneous and irrelevant having regard to the facts and circumstance of the matter under reference.

Prayer clause with all the submissions made therein is absolutely wrong and is emphatically denied. Complainant is not entitled to any relief whatsoever and is not entitled to claim and recover any thing from the answering respondent in the light of what is stated above. The complaint itself is not maintainable and is beyond the jurisdiction of this Hon’ble Court and is liable to be dismissed summarily on this score alone.
and more fully set out in the preliminary objections. It is prayed that the complaint may kindly be dismissed with costs.

Sd/-

(Opposite party)

Place :...........
Dated :...........

through

(ADVOCATE)

VERIFICATION
I,........, the above named respondent do hereby verify that the contents of paras.............to.............of the written statement on merits are true and correct to my knowledge. While paras.............to.............of legal objections and ........ to.......of reply on merits are true to my information, belief and legal advice received by me and believed to be true while the last para is prayer and is for this Hon’ble Court.

Verified at........this.............day of.............20..........

Sd/-

(OPPOSITE PARTY)
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