

# BUSINESS REGULATIONS

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## Chapter 4

### Consumer Protection Act 1986

The Consumer Protection Act was enacted in the year 1986 (commenced 24<sup>th</sup> December 1986) to provide a better protection of the interests of consumers and encourage the consumer movements through the consumer councils and other authorities for the settlement of consumer's disputes and for matters connected therewith. It applies to whole India. The Act gives full freedom to the consumers in getting legal protection and free from fear, complexities and technicalities involved with the various legal procedures in the regular course of action like complaints and so on. Moreover there is no court fees or stamp duty to be affixed, no matter whatever may be the amount involved in the complaints. So the Act facilitates the consumers a better, inexpensive and speedy remedy.

#### Consumer

Consumer is someone who acquire goods or services for direct use or ownership rather than for resale or use in production and manufacturing.

According to section 2(1)(d), "Any person who buys any goods against consideration is a consumer".

**Consumer Protection:** Consumer Protection means the protection of consumers from the exploitation by the unfair trade practices of the producers/sellers. In other words Consumer Protection means providing proper protection of the fundamental rights and interests of the consumers, freeing them from exploitation and creating consumer awareness.

#### Objectives of the Act

- **Better Protection of Interests of Consumers:** The Act seeks to provide for better protection of the interests of consumers and for that purpose, makes provision for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected therewith.
- **Protection of Rights of Consumers:** The Act is intended to protect following rights of the consumers

- ✓ **Right to Safety:** A consumer has the right to safety against such goods and services as are hazardous to his health, life and property. For example, spurious and sub-standard drugs, appliances made of low quality raw material and low quality food products. The consumers have the right to safety against the loss caused by such products.

Ex: Manu bought an insecticide from Nayana. Nayana did not inform Manu that touching the insecticide with bare hands can create skin problem. Manu, while using the insecticide came in contact with it and suffered from skin problem consequently. Here Nayana can be held liable under the Act.

- ✓ **Right to Information:** A consumer has also the right that he should be provided with all the information on the basis of which he decides to buy the goods or services. Such information relate to quality, purity, potency, standard, date of manufacture, method of use,



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etc of the commodity. Thus, a producer is required to provide all such information in a proper manner, so the consumer is not cheated.

- ✓ **Right to Choose:** This right has been recognised by Section 6(c) as, "the right to be assured, wherever possible, access to a variety of goods and services at competitive prices." Fair and effective competition must be encouraged so as to provide consumers with maximum information about the wide variety of competing goods available in the market. Shoppers or buyers guide should be made available to the consumers by the Government or Business organisations to protect this right of consumers.
- ✓ **Right to be Heard:** The Consumer Protection Act, 1986 has well taken care of this right by providing three stages redressal machinery to the consumers, namely, District Forum, State Commission and National Commission. Every consumer has a right to file complaint and be heard in that context.
- ✓ **Right against Exploitation:** Consumers are the most helpless in our country due to very many factors. When consumers are exploited, adequate remedy must be made available. The Act has thus ensured to prevent exploitation of consumers by invoking the jurisdiction of consumer Forums in cases involving unfair trade practices and restrictive trade practices.
- ✓ **Right to Education:** The right to consumer education is a right which ensures the remedies available to them. Unless the consumers are aware of their rights and remedies, protection of their interest shall remain a myth. In this connection the role of Consumer protection Councils is very vital. The Central Council must ensure to educate the consumers about their rights and remedies under the Act throughout the country and the State Councils and the District Councils must ensure to educate about these rights to consumers within their territories. For spreading this education, media, school curriculum and cultural activities etc. may be used as a medium.
- ✓ **Right to seek Redressal:** This right provides compensation to the consumers against the unfair trade practices of the seller. For example if the quantity and quality of the product do not confirm to those promised by the seller, the buyer has the right to claim compensation. Several redressal are available to the consumer by way of compensation.
- **Consumer Protection Councils:** The above objects are sought to be promoted and protected by the Consumer Protection Councils established at the Central and State levels.
- **Quasi-Judicial Machinery for Speedy Redressal of Consumer Disputes:** The Act seeks to provide speedy and simple redressal to consumer disputes. For this purpose, there has been set-up the quasi-judicial machinery at the District, State and Central levels.

### Features of the Act



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- **Consumer Redressal Forum:** The Act provides speedy redressal to consumer complaints. The Bill provides for setting up of a Consumer Redressal Forum in every district, a commission at the state level and the National Commission at the Centre. The Forum in the District will have original jurisdiction to redress complaints up to claim upto 1 crore. The State Commission will have original jurisdiction to settle claims up to the amount upto 10 crores. The National Commission can entertain any claim for damages above 10 crores.
- **Consumer Councils:** To promote voluntary consumer movement and to ensure involvement of consumers. The act provides for the establishment of Consumer Protection Councils in centre and the states. These Councils will have both non-official and official members. The objects of the Council will be to promote and protect the rights of the consumers.
- **Goods and Services are covered:** It shall apply to all goods and classes of goods or all services or classes of services except those which are specially exempted by notification by the Central Government.
- **Filing of Complaint:** The complaint can be filed by a consumer or an organisation being a society registered under the Societies Registration Act, or a company registered under the Companies Act, representing consumers or by the Central or State Government.
- **Check on Unfair Trade Practices:** The complaint can be filed on account of any unfair trade practices resulting in loss or damage, defect in the goods, deficiency in the services, prices charged in excess of the prices fixed by or under any law or displayed on the goods/packets.
- **Inexpensive Redressal Machinery:** This Act redresses in a simple, cheap, and dynamic manner the grievance of the consumer in limited time.
- **Social Welfare Legislation:** It is highly progressive piece of social welfare legislation. The Act has made consumer movement really powerful, broad-based and people-oriented.

### Rights of consumers

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### **Duties of consumers**

Apart from rights, there are certain duties imposed on the consumer. Consumer should be conscious of his duties. He should make purchases judiciously and should not misuse his rights. Following are the duties of consumers

- **Buying quality products at reasonable price:** It is the responsibility of a consumer to purchase product after gaining a thorough knowledge of its price, quality and other terms and conditions. The consumer should enquire about the price from certain shops and if possible from government stores to get an idea of its price. The consumer has to have the knowledge about the quality from his own experience or from the experiences of other persons who used the product or by browsing the website. Hence it is the duty of the consumer to buy scrupulously.



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- **Ensure the weights and measurement before making purchase:** The sellers often cheat consumer by using unfair weights and measures. The consumers should ensure that he/she is getting the product of exact weight and measure. Consumer should check the weights and balance of the product. Consumer should not buy a product which has been weighted along with its packing. Therefore the consumer should remain vigilant when the seller is naturally measuring or weighing the product.
- **Read the label carefully:** It is the duty of the consumer to thoroughly read the label of the product. It should have correct, complete and true information about the product.
- **Beware of false and attractive advertisements:** Often the products are not as attractive as shown in the advertisement by the sellers. Hence, the prime duty of consumers is not to be misled by the fraudulent advertisements.
- **Misleading schemes:** Mostly attractive advertisements are used to be very attractive and appealing to the senses. They may be occasionally false and misleading. The consumer is supposed to be careful with the attractive advertisements and avoid such misleading and false advertisements. These days almost every product in the market is offered for sale with a gift, discount, or a free product to bail the consumer to buy. For example, a free comb with soap, a discount off on the price of the soap or one free soap on buying one, and the like. Often a consumer is allured by such offers and buys such a product even when it is not desperately in order, to avail them of free offer.

In this case consumers should not forget that fact that the seller has already inflated the price of the product supplied with free offer and recovers its cost price under the scheme. Hence the consumers should be aware of the fact that he is not getting anything free and should not buy unwanted things out of greed.

- **Demand for cash memo:** The consumer must get a cash memo/bill in respect of goods purchased or service availed. In fact, a seller is bound to give a cash memo even though the buyer does not demand for it. It is a documentary evidence in support of goods purchased or service availed.
- **Buying from reputed shops:** It is advisable for the consumers to make purchase from reputed shops or government shops like supermarkets, cooperative stores and the like. The consumer by purchasing from such shops can escape from the malpractice of the manufacturer and shopkeepers or vendors.
- **Never purchase from black market:** The consumer should discharge his duties as responsible citizen. He should not buy things from black market and in excess of his requirements. At times of scarcity consumer should not resort to panic buying and stock things excessively. This practice prevents others from purchasing their share of requirement. Thus a consumer must choose only legal goods and services and discourage malpractices like smuggling, hoarding, black marketing etc.



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- **Buying standardized products:** Often the consumer buys cheap products which are not durable or are not safe. Therefore, it is the duty of the consumers to buy the products with standardization marks which is supposed to be safe in every respect.
- **Not to buy in a hurry:** A consumer must not buy in hurry that means he should think thoroughly before buying any product or service, with regards to quality, quantity, price, time of purchase etc.
- **Follow the instruction of the manufacturer:** It is the duty of the consumer to use the product as per its instructions, e.g., if a medicine carries an instruction regarding its storage, it should be stored in the fridge. This would help in prevention of any damage to the medicine and harm to the consumer's health.
- **Knowledge of consumer rights:** These days it is not uncommon to see a seller trying to cheat the consumer in every possible way in order to earn quick profits. It is the duty of the consumer to be aware of his rights. If a consumer is cheated by a seller, then he should immediately lodge a complaint with the authorities designated for consumers.
- **Protection of environment:** Consumer must have respect for the environment and avoid wasting of resources and protect the environment.

### Who are not Consumers?

The following persons are not consumers as per the Consumer Protection Act, 1986

- a person who purchased goods for resale or for commercial purpose
- a person who buys goods or obtains services without consideration
- hires or avails of any services without consideration; or
- uses the goods without the approval of the person who has bought the goods for consideration;
- is beneficiary of services without the consent of the person who has hired the service for consideration or
- person who obtains services under a contract of personal service.

**Consumer Dispute:** According to Section 2(1) (e) of the Consumer Protection Act, 1986 'Consumer Dispute' means "a dispute where the person against whom a complaint has been made denies or disputes the allegations contained in the complaint", separate allegation may form separate disputes requiring separate findings on each dispute. ] Sec-A 1

As per the New Act 2019, "Consumer Dispute" (Section 8) means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained the complaint; ]

**Defect:** As per Section 10 "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 has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service'. ] Sec A 1

Three types of defects are envisaged

- **Manufacturing Defect:** A product is said to have manufacturing defect when it is not built according to specification and is consequently unsafe. For instance, there may be negligence on



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the part of an employee in assembling a part or tightening a nut or a latent defect (hidden flaw) in the raw material out of which the product is made.

- **Design Defect:** It appears there is no clear standard with reference to Standards prescribed by Government or industry, if any, but courts may liberally interpret the provision to test the complaint from the angle of reasonable care designing a product. Several High Courts have held that a product is defectively designed if the product is more dangerous than the benefits that accrue on account of product design in the eyes of an ordinary consumer.
- **Instruction Defect:** When a manufacturer fails to provide adequate warning of possible dangers associated with the product in Product Manual, Instruction booklet or on package/ label regarding safe use of the product, for example the drug manufacturer is expected to warn against side effects. It is not a valid defence to argue that manufacturer was not aware of the danger.

Following types of evidence is generally relied upon by complainants to establish defect in product:

- **Expert Opinion:** Complainant hires a technical expert to testify about the defective characteristics of a product. A manufacturer has to retain highly qualified experts to rebut the findings of complainant's expert and also educate defence lawyer so well that he can call the bluff of complainant's expert.
- **Manufacturer's records:** If manufacturer's own employees expressed concern about product safety it can be extremely persuasive that product defect existed.
- **Government and Industry Standard:** Evidence that manufacturer has failed to meet government or industry standards can be compelling proof of existence of defect and when such standards are mandatory it also amounts to automatic findings of negligence.
- **Post accident changes:** Post accident changes may be considered as evidence that original designs were deficient.
- **Report of Government and the other agencies:** Generally factual findings of an official investigation forms admissible evidence.
- **Past record:** Complainant may show that past record of the product proves his claim. Manufacturer has the obligation of proving that other accidents were not similar.

**Deficiency:** Deficiency means any fault, imperfection, shortcoming or adequacy 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 [Section 2(1)(g)]. *Sec - AD*

**Manufacturer:** Manufacturer means a person

- makes or manufactures any goods or parts thereof, or
- does not make or manufacture any goods but assembles parts there of made or manufactured by himself, or
- puts or use to be put his own mark on any goods made or manufactured by any other manufacturer and claims such goods to be goods made or manufactured by himself.



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**Service [Section 2(O)]:** "Service" means Service of any description which is made available to potential users and includes the provisions of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, boarding or lodging or both, house construction, entertainment, amusement or other information.

**Complaint:** "Complaint" means any allegation in writing made by a complainant with a view to obtaining any relief under the Consumer Protection Act, that:

- as a result of any unfair trade practice or restrictive trade practice, adopted by a trader, the complainant has suffered loss or damage;
- the goods mentioned in the complaint suffer from one or more defects;
- the services mentioned in the complaint suffer from deficiency in any respect;
- 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.
- goods which will be hazardous to life and safety when used are being offered for sale to the public.
- 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

The complaint is to made with a view to obtaining any relief provided by or under this Act.

### Who can make a Complaint?

A complaint in relation to any goods sold or delivered, or any service provided may be filed with quasi-judicial organs constituted under the Consumer Protection Act, 1986; any of the following

- the consumer to whom such goods are sold or delivered or such service provided;
- any recognised consumer's association registered under law, or
- the Central or any State Government, and
- one or more consumers or behalf of many consumers having same interest or
- in case of death of a customer, his legal heir or representative *(Sec-A2)*

### What Complaints may be Lodged?

A complaint under may relate to one or more of the following:

- **Unfair trade practices:** An unfair trade practice or a restrictive trade practice has been adopted by any trader, or service provider;
- **Defects in goods:** The goods bought by him or agreed to be bought by him suffer from one or more defects;
- **Deficiency in service:** The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;
- **Price variation:** 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 on any package containing such goods;



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- **Hazardous goods:** 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.

### To Whom the Complaint is to be made

According to the Consumer Protection (Amendment) Act, 2019, a complaint can be made to the following quasi-judicial agencies in the following manner:

- Where the value of goods or services and compensation, if any, **claimed does not exceed Rs 1 crore**, complaint is to be filed with the District Forum;
- Where the value of goods or services and compensation, if any, **claimed exceeds Rs 1 crore, but does not exceed Rs 10 crores**, complaint is to be filed with the State Commission.
- Where the value of goods or services and compensation; if any; **claimed exceeds Rs 10 crores**, the complaint to be filed with the National Commission.

### How to file a Complaint

Procedure for filing a complaint are simply and speedy.

- No fees have been prescribed.
- Complainant or his authorised agent can present the complaint in person.
- The complaint can be sent by post to the appropriate Forum/ Commission.

### How to draft a Complaint

A complaint should contain the following information:

- Name and description and address of the complainant.
- Name, description and address of the opposite party or parties.
- The facts relating to complaint and when and where it arose.
- Documents, if any, in support of the allegation contained in the complaint.
- The relief which the complainant is seeking.
- The complaint should be signed by the complainant or his authorised agent.

### Who is liable to pay Compensation?

The liability extends from manufacturer to retailer or in other words to everyone in the chain of distribution. Even an occasional seller may be held liable for his negligence to the extent he should have known or discovered that the product was dangerous to users.

### Unfair Trade Practices (UTP) *lec - AD*

According to section 2(1)(r) of Consumer Protection Act 1986 Unfair trade practice means a trade practices 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<sup>270</sup> including any of the following practices, namely:

#### I. Misleading Advertisement and False Representation

- falsely representing that the goods are of a particular standard, quality, quantity, grade, composition, style or model.



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- falsely representing that the services are of a particular standard, quality grade.
- falsely representing that the re-built, second-hand, renovated, reconditioned or old goods as new goods.
- representing that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such services do not have.
- that the seller or the supplier has a sponsorship or approval which he does not have.
- a false or misleading representation concerning the need, for, or the usefulness of any goods or services.
- giving to the public any warranty or guarantee of the performance or length of life of a product which is not based on adequate test.
- making a materially misleading representation to the public concerning the price at which a product or like products of goods have been or are ordinarily sold.
- giving false or misleading facts disparaging the goods, services or trade of another person.

**2. Sale offer of bargain price:** This includes advertising for supply, at a bargain price, goods or services that are not intended to be offered for supply to the price for a reasonable period or reasonable quantities.

**3. Schemes offering Gifts or Prizes:** This category includes

- offering gifts or prizes or other items with the intention of not providing them and conducting promotional contests;
- the conduct of any contest, lottery or game of chances, etc.

**4. Non-compliance of prescribed standards:** This category includes cases where goods are sold for use by consumers knowing or having reason to believe that they do not comply with the standards prescribed by some competent authority. The prescribed standard may relate to performance of compositions contents, design, construction, finishing or packing as are necessary to prevent or reduce the risk of injury to the person using the goods.

**5. Hoarding, destruction or refusal:** The fifth and last category of unfair trade practices includes cases of hoarding, destruction of goods or refusal to sell goods or services so as to raise the cost of those or similar goods.

**6. Manufacture of spurious goods:** The manufacture of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services are also unfair trade practices.

### **Restrictive Trade Practices (RTP)**

According to section 2(1)(pn) of the Consumer Protection Act defines "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

- 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.
- Any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as conditions precedent to buying, hiring or availing of other goods or services.



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### **Consumer Protection Council**

Consumer interests are protected by setting protection councils at three levels namely central level, state level and district level.

### **Central Council**

The Central Government has constituted a Central Protection Council by notification with effect from 1-6-1987. As per the Consumer Protection Rules the Central Council consists of 150 members. They are:

- The Minister-in-charge of Consumer affairs in the Central Government. He shall be the Chairman of the Central Council
- The Minister of State or Deputy Minister in the Department of Civil Supplies in the Central Government. He shall be the Vice-Chairman of the council
- The Minister of Food and Supplies in States
- Eight Members of Parliament: Five from the Lok Sabha and three from Rajya Sabha
- The Commissioner of scheduled castes and scheduled tribes
- 10 representatives of women
- 20 representatives of farmers, trade and industries.
- 15 persons capable of representative consumer interests
- 35 representatives of the consumer organisation or consumers
- The Secretary in the Department of Civil Supplies. He shall be the members secretary of the Central Council

### **Procedure of the Central Council**

The Central Council shall meet as and when necessary. At least one meeting of the council shall be held every year. The Central Council shall meet as at such time and place as the Chairman may think fit. It shall observe such procedure in regard to the transaction of its business as may be prescribed.

The procedure which the Central Council shall observe in regard to the transaction of its business is as under:

- 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.
- Each 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.
- 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.
- No proceedings of the Central Council shall be invalid merely by reason of existence of any vacancy in or any defect in the constitution of the Council.

The resolutions passed by the Central Council shall be recommendatory in nature.

### **Objects of the Central Council**

The objects of the Central Council shall be to promote and protect the right of the consumers.



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- **The right to be protected against the marketing of goods which are hazardous to life and property:** The consumer is assured by this Act that if he has been victimized into purchasing goods which have injured his person or property, he will have simple, speedy and effective remedy under this hierarchy. It has become an established principle that a producer sending goods into the market would be liable to the ultimate if his person or property is injured in the normal use of goods.  
Ex: Adulterated goods are dangerous to life as well as to property.
- **The right to informed about the quality, quantity, potency, purity, standard and price of goods so as to protect consumer against unfair trade practices:** This is intended to save the consumer from unfair trade practices like false and misleading descriptions about the nature and quality of the goods, and exaggerated statements about their power and potency. In all cases of unfair trade practices or restrictive trade practices, the consumer would have the option of either apply to the Monopolies Commission under the Monopolies and Restrictive Trade Practices Act, 1969 or the Redressal Agencies constituted under the Consumer Protection Act. Viz., District Forum, State Commission, National Commission.
- **The right to be assured, wherever, possible, access to variety of goods at competitive price:** The Central Council constituted under this Act has been charged with the responsibility or bringing about the organisation of markets and market practices in such a way that all dealers are supplied with a variety of goods for the benefit of consumer and that the goods with a variety are being offered at competitive prices. It is only then that the consumer will have success to variety and will be able to enjoy the benefit of competitive prices.
- **The right to be heard and to be assured that consumer's interest will receive due consideration at appropriate Forums:** The Central Council is charged with the responsibility of assuring the consumers that they would be heard of right by the appropriate Forums and the consumers will receive due attention and consideration from such Forums.
- **The right to seek redressal against unfair trade practices, or unscrupulous exploitation of consumers:** Three redressal agencies have been established to provide simple and speedy redressal to consumer disputes. These agencies have been empowered to give relief of specific nature and to award compensation to Consumers. They will observe the principles of natural justice. Their orders are final unless appealed.
- **The right to consumer education:** The consumer has been given the right to education by section 6 of the Consumer Protection Act, 1986. The Central Council has been charged with the responsibility to provide to the people proper education in terms of their remedies under Act. People's awareness is likely to prove a better for putting the trade on some level of discipline that of Governments Controls.

(NOTE: You can write the same answer that is given for rights of consumers)

### State Council



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Section 7 provides for the establishment of State Consumer Protection Councils by any State Government (by notification) to be known as Consumer Protection Council.

The State Council shall consist of a

- Minister in-charge of Consumer affairs in the State Government who shall be its Chairman
- Such number of other official or non-official members representing such interests as may be prescribed by the State Government.
- Such number of other official or non-official members, not exceeding 10, as may be nominated by the central government.

The State Council shall meet as and when necessary but not less than two meetings shall be held every year. The procedure to be observed in regard to the transaction of its business at such meetings shall be prescribed by the State Government.

### District Council

The State Government shall establish for every district, by notification, a council to be known as the District Consumer Protection Council. The District Consumer Protection Council shall consist of the following members, namely:

- The Collector of the district, who shall be its Chairman; and
- Such number of other official and non-official members representing such interests as may be prescribed by the State Government.

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

### Objects of the District Council

The objects of every District Council shall be the same as the objects of the Central Council to promote and protect the rights of the consumers within the district.

(NOTE: The objects of all the councils will be same)

### Consumer Dispute Redressal Agencies (Very Important)

#### District Forum

District Forum means a Consumer Disputes Redressal Forum, established under section 9(2) of the Consumer Protection Act, 1986. This is established by the **State Government in each district of the State** by means of a notification. If reasonable and necessary, the State Government can establish more than one district forum in a district.

**Composition:** Each district forum shall consist of a committee of **3 persons** – a President and Two members out of whom one must be women, who are being appointed by the State Government.

#### Qualification

- The President should be a person who is, or has been or is qualified to be a **District Judge**



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- Out of 2 members one should be person of eminence in the field of education, trade or commerce, law etc. and
- a lady social worker.

### **Appointments**

Appointments to the District Forum shall be made by the State Government on the recommendation of a Selection Committee consisting of

- the President of the State Commission,
- the Secretary - Law Department of the State and
- the Secretary in charge of Consumer Affairs in the State.

### **Disqualifications for appointment**

A person shall be disqualified for appointment if the -

- Has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
- Is an undischarged insolvent; or
- Is of unsound mind and stands so declared by a competent court; or
- **Has been removed or dismissed from the service of the Government or a Body Corporate owned or controlled by the Government; or**
- 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
- Has such other disqualification as may be prescribed by the State Government.

**Term of office:** Every member of the District Forum shall hold office of a term office **5 years or upto the age of 65 years, whichever is earlier.**

**Salaries:** The salary or honorarium and other allowances payable to members, and their conditions of service may be prescribed by the State Government.

**Resignation:** A member may resign by giving a notice in writing to the State Government where upon the vacancy will be filled up by the State Government. When the office of a President of a District Forum, 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, as the case may be.

### **Removal of President or members from Office**

The State Government may remove from office, the President or any member who –

- has been adjudged an insolvent; or
- Has been convicted of an offence which in the opinion of the Central Government, involves moral turpitude; or
- Has become physically or mentally incapable of acting as the President has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a member; or



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- Has so abused his position as to render his continuance in office prejudicial to the public interest;
- or remains absent in three consecutive sittings except for reasons beyond his control.

**Jurisdiction:** The district forum enjoys jurisdiction to entertain complaints where the value of goods or the services and the compensation, if any, claimed, **does not exceed 20 lakhs.**

### Jurisdiction Changes

- The 2019 Act continues to have Consumer Dispute Redressal Commissions at the District, State and National levels (Consumer Commissions), however the pecuniary jurisdiction, i.e. the monetary value of complaints that can be entertained, of each of these commissions have been substantially increased to reduce the burden on the State and National Commissions by encouraging consumers to approach the **District Commission for complaints valued up to Rupees 1 Crore.**
- Furthermore, the jurisdiction of the Consumer Commissions has also been expanded to allow **complaints to be made where the complainant resides or personally works for gain**, as opposed to the 1986 Act where complaints had to be instituted where the opposite party resides or conducted business, or where the cause of action arose. This will ease the burden on consumers who will now be able to institute complaints at the district level where they reside and will not be compelled to travel to other parts to pursue their complaints.

### Powers of District Forum

- **Power akin to those of Civil Court:** According to Section 13 of Consumer Protection Act, Consumer Forum has been empowered like a Civil Court with respect to the following:
  - ✓ It can summon or enforce the defendant or witness for attendance or can examine the witness on oath.
  - ✓ Discovering or producing any document or other material fact that can be taken as evidence.
  - ✓ It may ask for report or test from appropriate laboratory or from any other relevant source.
  - ✓ Setting up commission to examine the witness.
  - ✓ Passing an interim order during the pendency of a case considering the fact and circumstance of a case.
  - ✓ Any other prescribed matter.
- **Power like a Criminal Court:** According to Section 27, the Consumer Forums can also act like a first class Judicial Magistrate for the purpose of the code of criminal procedure. Clearly speaking, the Consumer Forums can use the power of a first class Judicial Magistrate if required.
- **Power to make summary judgement:** District Consumer Forums are authorised to decide the cases on summary trial. The term 'Summary Trial' refers to the trial where the Consumer Forum does not consider any evidence and deal with case on the basis of affidavits given by the parties. ♣
- **Additional Powers of the Consumer Forums:** The District Forum has been conferred some additional powers



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- ✓ A Forum can ask for producing any book, account, documents or commodities from any person for examining or retaining them.
- ✓ It can ask for information required for the purpose to carry forward the proceeding from any person under the Act.
- ✓ It can enter into any premises for searching an book, document, papers or commodities for the purpose to carry forward the proceeding under the Act.
- **Power to issue an order:** If the Forum is satisfied that complainant has suffered due to deficiency in service or defect in goods. Forum may issue an order to opposite parties to do one or more of the following things, namely
  - ✓ To take out the deficiency from service in question or take out defect in case of goods if any.
  - ✓ To improve the service or replace the product of similar description in case of goods.
  - ✓ For paying back prices or charges paid by the complainant.
  - ✓ To stop resorting unfair trade practices or restrictive trade practices.
  - ✓ To compensate the consumer for the loss or injury occurred due to negligence of the opposite party.
  - ✓ To discontinue offering hazardous goods from being offered for sale.
  - ✓ Directing the opposite party to neutralise the effect of misleading advertisement on the cost of opposite party responsible for issuing such misleading advertisement.
- **Executive Powers:** The Consumer Forums have been given some executive powers what they were lacking before amendment
  - ✓ If opposite party does not comply with the interim order passed by the Forum, an order can be made to attach the property of the opposite party for not complying with order.
  - ✓ If non-compliance of order continue for more than three months, than attached property may be sold to compensate the consumer suffered loss or injury and balance, if any, will be given to entitled party.
  - ✓ If any person entitled for the remaining amount, he or she can make an application to the concerned Consumer Forum and Forum may issue a certificate to District Magistrate for the said amount and Collector shall proceed to recover the said amount in the manner applied for arrears of land revenue.

### **Orders**

If the Forum is convinced that the goods are really defective, or that the complaint about the service is proved, the Forum shall have to order the opposite party to do one or more of the following things

- To remove the defect pointed out by the laboratory from the goods in question.
- To replace the goods with new goods of a similar description, which should be free from any defect.
- To return to the complainant the price of the goods, or the charges of services paid by the complainant.



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- To pay such amount as may be awarded compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party. The District Forum shall have power to grant punitive damages, if such circumstances as it deems fit.
- To remove the defects or deficiencies in the services in question.
- To discontinue the unfair trade practice or the restrictive trade practice or not to repeat them.
- Not to offer the hazardous goods for sale.
- To withdraw the hazardous goods from being offered for sale.
- To cease manufacture of hazardous goods, and to desist from Offering services which are hazardous in nature;
- To issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;
- To provide for adequate costs to parties.

**Enforcement of Orders:** The orders of a District Commission are enforceable in the manner of an order or decree made by a Civil Court in a civil suit. If the District Commission is not able to execute its order, it may forward the same to the civil court for execution.

**Time Limit for deciding the complaint:** Every complaint shall be disposed of as expeditiously as possible and endeavor 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 the analysis and testing of commodities.**

**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 **45 days from the date of the order.** The appeal to the State Commission is to be made in such form and manner as may be prescribed.

### **State Commission**

State Forum means a Consumer Disputes Redressal Forum, established under the Consumer Protection Act, 1986. This is established in the **State by the State Government on the approval of Central Government** by means of a notification.

**Composition:** Each district forum shall consist of a committee of **3 persons** – a President and Two members, who are being appointed by the State Government.

### **Qualification**

- The President should be a person who is, or has been or is qualified to be a **High Court Judge**
- Two other members who shall be persons of eminence in the field of education, trade or commerce, law etc.

### **Appointments**

Appointments to the State Forum shall be made by the State Government on the recommendation of a **Selection Committee** consisting of

- the President of the State Commission,
- the Secretary - Law Department of the State and



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- the Secretary in charge of Consumer Affairs in the State.

### **Disqualifications for appointment**

A person shall be disqualified for appointment if the -

- Has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
- Is an undischarged insolvent; or
- Is of unsound mind and stands so declared by a competent court; or
- Has been removed or dismissed from the service of the Government or a Body Corporate owned or controlled by the Government; or
- 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
- Has such other disqualifications as may be prescribed by the State Government.

**Term of office:** Every member of the State Forum shall hold office of a term office **5 years or upto the age of 67 years, whichever is earlier.**

**Salaries:** The salary or honorarium and other allowances payable to members, and their conditions of service may be prescribed by the State Government.

**Resignation:** A member may resign by giving a notice in writing to the State Government where upon the vacancy will be filled up by the State Government. When the office of a President of a State 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 State Commission, as the case may be.

### **Removal of President or members from Office**

The State Government may remove from office, the President or any member who –

- has been adjudged an insolvent; or
- Has been convicted of an offence which in the opinion of the Central Government, involves moral turpitude; or
- Has become physically or mentally incapable of acting as the President has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a member; or
- Has so abused his position as to render his continuance in office prejudicial to the public interest; or remains absent in three consecutive sittings except for reasons beyond his control.

**Jurisdiction:** The state forum enjoys jurisdiction to entertain complaints where the value of goods or the services and the compensation, if any, claimed, **exceeds 20 lakhs but does not exceed 1 crore.** \*

**Jurisdiction Changes:** The 2019 Act continues to have Consumer Dispute Redressal Commissions at the District, State and National levels (Consumer Commissions), however the pecuniary jurisdiction, i.e. the monetary value of complaints that can be entertained, of each of these commissions have been substantially increased to reduce the burden on the State and National Commissions by encouraging consumers to approach the **State Commission for complaints valued up to Rupees 10 Crores.**



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### **Orders**

If the State Commission is convinced that the goods are really defective or that the complaint about the service is proved the State Commission shall issue an order to the opposite party to take one or more of the following things

- To remove the defect pointed out by the appropriate laboratory from the goods in question.
- To replace the goods with new goods of similar description which shall be free from any defect.
- To return to the complainant the price of the goods or the service charges paid by the complainant.
- 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.
- To remove the defects or deficiencies in the service.
- To discontinue the unfair trade practice or the restrictive trade practice or not repeat them
- Not to offer the hazardous goods for sale.
- To withdraw the hazardous goods from being offered for sale.
- To cease manufacture of hazardous goods, and to desist from Offering services which are hazardous in nature;
- To issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;
- To provide for adequate costs parties.

**Enforcement of Orders:** The orders of a State Commission are enforceable in the manner of an order or decree made by a Civil Court in a civil suit. If the State Commission is not able to execute its order, it may forward the same to the civil court for execution.

**Time Limit for deciding the complaint:** An appeal filed before the State Forum as the case may be, shall be heard as expeditiously as possible and every endeavor shall be made to dispose of the appeal within a period of **90 days** from the date of its admission.

**Appeal:** Any person aggrieved by an order made by the State Commission may prefer an appeal against such order to the National Commission within a period of **30 days** from the date of the order. The appeal must be made in such form and manner as maybe prescribed. National Commission may, however, entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing it within that period.

### **National Commission**

National Forum means a Consumer Disputes Redressal Forum, established under the Consumer Protection Act, 1986. This is established by the **Central Government** by means of a notification.

**Composition:** Each national forum shall consist of a committee of **5 persons** – a President and four members, who are being appointed by the Central Government.

### **Qualification**

- The President should be a person who is, or has been or is qualified to be a Supreme Court Judge
- Four other members who shall be persons of eminence in the field of education, trade or commerce, law etc.



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### **Appointments**

Appointments to the National Forum shall be made by the Central Government on the recommendation of a Selection Committee consisting of

- a person who is a **Judge of the Supreme Court, to be nominated by the Chief Justice of India - Chairman**
- the Secretary in the Department of Legal Affairs in the Government of India - Member
- the Secretary of the Department dealing with Consumer Affairs Government of India - Member

### **Disqualifications for appointment**

A person shall be disqualified for appointment if the -

- Has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
- Is an undischarged insolvent; or
- Is of unsound mind and stands so declared by a competent court; or
- Has been removed or dismissed from the service of the Government or a Body Corporate owned or controlled by the Government; or
- 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
- Has such other disqualifications as may be prescribed by the Central Government.

**Term of office:** Every member of the National Forum shall hold office of a term office **5 years or upto the age of 70 years, whichever is earlier.**

**Salaries:** The salary or honorarium and other allowances payable to members, and their conditions of service may be prescribed by the National Government.

**Resignation:** A member may resign by giving a notice in writing to the Central Government where upon the vacancy will be filled up by the Central Government. When the office of a President of a 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 National Commission, as the case may be.

### **Removal of President or members from Office**

The Central Government may remove from office, the President or any member who –

- has been adjudged an insolvent; or
- Has been convicted of an offence which in the opinion of the Central Government, involves moral turpitude; or
- **Has become physically or mentally incapable of acting as the President has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a member; or**
- Has so abused his position as to render his continuance in office prejudicial to the public interest; or remains absent in three consecutive sittings except for reasons beyond his control.

The President or any member shall not be removed from office on any of the above grounds, except on an inquiry held by a sitting Judge of the Supreme Court nominated by the Chief Justice of India in which the



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President or member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

**Jurisdiction:** The National forum enjoys jurisdiction to entertain complaints where the value of goods or the services and the compensation, if any, claimed, **exceeds 1 crore.**

**Jurisdiction Changes:** The 2019 Act continues to have Consumer Dispute Redressal Commissions at the District, State and National levels (Consumer Commissions), however the pecuniary jurisdiction, i.e. the monetary value of complaints that can be entertained, of each of these commissions have been substantially increased to reduce the burden on the State and National Commissions by encouraging consumers to approach the **National Commission for complaints valued above Rupees 10 Crores.**

### **Orders**

If the National Commission is convinced that the goods were really defective or that the complain about the service is proved, it shall order the opposite Party to do one or more of the following things

- To remove the defect pointed out by the appropriate laboratory from the goods.
- To replace the goods with new goods of a similar description, which shall be free from any defect
- To return to the complainant the price of the goods or the charges for services paid by the complainant.
- To pay to the complainant a sum of money by way of compensation for any loss or injury suffered by the consumer due to the negligence of the opposite party.
- To remove the defects or deficiencies in the services in question.
- To discontinue the unfair trade practice or the restrictive trade practice or not to repeat them.
- Not to offer the hazardous goods for sale.
- To withdraw the hazardous goods from being offered for sale.
- To cease manufacture of hazardous goods, and to desist from offering services which are hazardous in nature;
- To issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;
- To provide for adequate costs to parties.

**Enforcement of Orders:** Every order made by the National Commission may be enforced in the same manner as a decree or order made by a Civil Court.

**Time Limit for deciding the complaint:** An appeal filed before the State Forum as the case may be, shall be heard as expeditiously as possible and every endeavor shall be made to dispose of the appeal within a period of **90 days** from the date of its admission.

**Appeal:** An appeal to the Supreme Court can be made within a period of **30 days** from the date of the order of National Commission. The Supreme Court may permit an appeal even after the expiry of the prescribed period if there was a sufficient cause for not being able to file an appeal in time.

### **Penalties**



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Every trader or a person against whom complaint is made is bound to comply with the order of the District, State and National Commission. If a trader or a person fails to comply with the order of District, State and National Commission, he shall be punishable

- With imprisonment for a minimum period of one month and maximum of 3 years, or
- With minimum fine of 2000 and maximum of 10,000, or
- Both, (with imprisonment and fine as stated above)

### **Dismissal of frivolous or vexatious complaints**

Where a complaint instituted is found to be frivolous or vexatious, the District Forum, the State Commission or the National Commission, as the case may be, 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.

### **Finality of the Orders**

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

### **Limitation Period for filing of Complaint**

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.** However, where the complainant satisfies the Forum/Commission as the case may be, that he had sufficient cause for not filing the complaint within 2 years, such complaint may be entertained by it after recording the reasons for condoning the delay.