

CONSUMER PROTECTION ACT' 1986

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Introduction

- A consumer is a user of goods and services, therefore, every producer is also a consumer. However, conflicting interests have categorised them, inevitably, into two different groups.
- The industrial revolution brought in the concept of standardisation and mass production and over the years, the type of goods and the nature of services available grew manifold.

- The doctrine of 'Caveat Emptor' or '**let the buyer beware**' which came into existence in the middle ages had been replaced by the principle of '**Consumer Sovereignty** or '**Consumer is the King**'.



Basic Consumer Rights

The basic rights of consumers that are sought to be promoted and protected are:

- the right to be protected against marketing of goods and services which are hazardous to life and property;
- 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 practices;
- the right to be assured, wherever possible, access to variety of goods and services at competitive prices; education.

- the right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums;
- the right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers; And
- right to consumer

Consumer Protection Councils



Redressal Agencies under the Consumer Protection Act

Central Consumer Protection Council

- Section 4 empowers the Central Government to establish a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council), consisting of the Minister in charge of Consumer Affairs in the Central Government, as its Chairman, and such number of other official or nonofficial members representing such interests as may be prescribed. However, the Consumer Protection Rules, 1987 restrict the number of members of the Central Council to 150 members.
- Section 5 of the Act requires the Central Council to meet as and when necessary, but at least once in every year. The procedure in regard to transaction of its business at the meeting is given in Rule 4 of the Rules.

State Consumer Protection Council

- Section 7 provides for the establishment of State Consumer Protection Councils by any State Government (by notification) to be known as Consumer Protection Council for (name of the State). The State Council shall consist of a Minister incharge of Consumer Affairs in the State Government as its Chairman and such number of other official or non-official members representing such interests as may be prescribed by the State Government and such number of other official or non official members, not exceeding ten, 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 Consumer Protection Council

- In order to promote and protect the rights of the consumers within the district, section 8A provides for establishment in every district of a council to be known as the District Consumer Protection Council .It shall consist of the Collector of the district (by whatever name called), 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.



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DISTRICT FORUM

- The 'District Forum' is the short name of the Consumer Disputes Redressal Forum established in the District under Section 9(a) of the Consumer Protection Act, It is the redressal agency to deal with the complaints of the consumers at the District level. Legal provision relating to District forum: 1. Composition of the district forum
- The District Forum is a body of three persons appointed by the State Government. The qualifications of the President and other members are as follow:
- (a) President: A person who is, or has been or is qualified to be, a District Judge shall be the President of the District Forum.
- (b) Other Member: A part from the President, the District Forum shall consist of two other members one of whom shall be a woman.

- The qualification for appointment of other members are:
 - (i) He/She must not be less than 36 years of age.
 - (ii) He/She must possess a bachelor's degree from a recognised university.
 - (iii) He/She must be a person of ability, integrity and standing and have adequate knowledge and experience of at least 10 years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administrations.

Appointment of members of District Forum

- The appointment of the President and of the members shall be made by the State Government on the recommendation of the selection committee consisting of
 - (a) the President of the State Commission,
 - (b) Secretary, Law Department of the State, and
 - (c) Secretary, in charge of the Department dealing with consumer affairs in the State.

Disqualifications of members

- a) If he has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the State Government, involves moral turpitude, or
- b) If he is an undischarged insolvent, or
- c) If he is of unsound mind and stands so declared by a competent court, or
- d) If he has been removed or dismissed from the services of the Government or a body corporate owned or controlled by the Government,

Tenure of office of the members of the District Forum

- A person may act as a President or a member of the District Forum for 5 years or up to the age of 65 years, whichever is earlier.
- Thus, in any case, a person cannot hold the office of the President or that of the member beyond the age of 65 years.

- Vacancy in the office of the District Forum The officer of the President or of any member of the forum may become vacation on his attaining the age of sixty-five years.
- Jurisdiction of the District Forum The District Forum has the jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed rupees 20 lakhs.
- The limit has been enhanced from Rs. 5 lakhs by the Consumer Protection (Amendment) Act 2002

PROCEDURE ON RECEIPT OF COMPLAINT (SECTION-13)

- The district forum has to observe the procedure mentioned in section. It may be summarised as follows-
 - 1.) **Reference of complaint to opposite party** –
Whenever the district forum receives a complaint, relating to a goods, it should refer a copy of the complaint to the opposite party. It must be given within 30 days of receiving the complaint. However, it may be extended by a further period not exceeding 15 days.
 - 2.) **On refusal or dispute by opposite party** – When the opposite party, on receipt of a complaint, refusal/disputes the allegations contained in the complaint or fails to take any action within the time given by the district forum, the forum shall proceed to settle the consumer dispute in the following manner –

1. Reference of sample to laboratory
2. Deposit of fees
3. Forwarding of report to opposite party
4. Objection by any of the parties
5. Reasonable opportunity to parties of being heard and issue order

Who can complaint in the district forum

- A complaint in relation to any goods sold or delivered or any serviced provided may be filed with a district forum by –
 1. Consumer of goods/service
 2. Any recognized consumer association
 3. Central or state government
- For the purpose of this section “recognised consumer association” means any voluntary consumer association registered under the companies Act 1956 or any other law for the time being in force (Sec. 12)

Power of the District forum

- The district forum shall have the same power as are vested in a civil court under the code of civil procedure, 1908 while trying a suit in respect of the following matter, namely-
 1. The summoning and enforcing attendance of any defendant or witness and examining the witness on oath.
 2. The discovery and production of any document or other material object producible as evidence.
 3. The reception of evidence on affidavits
 4. The requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source.

5. Issuing of any commission for the examination of any witness and
6. Any other matter which may be prescribed.

Every proceeding before the district forum shall be deemed to be a judicial proceeding within the meaning of Sec. 193 and 228 of the Indian Penal code; 1860 and the District forum shall be deemed to be a civil court for the purposes of Sec. 195 and chapter XXVI of the code of criminal procedure 1973.

Findings of the District forum (Sec. 14)

- If the district forum is satisfied that the goods 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 take one or more of the following things namely-
 - 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 charge paid by the complainant.

STATE COMMISSION

- 'State Commission' is the short name given to the Consumer Disputes Redressal Commission established in the State under Section 9(b) of the Consumer Protection Act, 1986 [Section] 2(1) (p). It is the redressal agency to deal with the complaints of the consumers at the State level.
- Legal provision relating to District forum Composition of the State Commission Section 16(1) makes the following provisions regarding the qualifications of the President and other members:
 - (a) **President:** A person who is or has been a judge of a High Court shall be the President of the State Commission.
 - (b) **Other members:** Apart from the President, the State Commission shall consist of two other member one of whom shall be a woman.
The qualifications for appointment of the other member are: (i) He/She must not be less than 35 year of age. (ii) He/She must possess a bachlor's degree from a recognised university. (iii) He/She must be a person of ability, integrity and standing and have adequate knowledge or experience of at least 10 years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

- **Appointment of members of State Commission** The appointment of the President shall be made by the State Government after consultation with the Chief Justice of the High Court of the State. And the appointment of the other members shall be made by the State Government on the recommendation of the selection committee consisting of
 - (a) President of the State Commission,
 - (b) Secretary of the Law Department of the State and
 - (c) Secretary, in charge of Department dealing with consumer affairs in the State.
- **Disqualification of members** These disqualifications are the same as already discussed the District Forum.

- **Tenure of office of the members of the State Commission** The President or the member of the State Commission shall hold office for a term of 5 years or up to the age of 67 year, whichever is earlier.

Thus, in any case, a person cannot hold the office of President or that of a member beyond the age of 67 years.

- **Jurisdiction of the State Commission**

(a) Pecuniary jurisdiction: The State Commission has the jurisdiction to entertain complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees 20 lakhs but does not exceed rupees one crore.

(b) Appellate jurisdiction: Any person aggrieved by an order made by the District Forum may prefer an appeal to the State Commission with a period of 30 days from the date of the order.

NATIONAL COMMISSION

- The 'National Commission' is the short name given to the National Consumer Disputes Redressal Commission established in the country under Section 9(c) of the Consumer Protection Act, 1986.

- **Legal provision relating to District forum**

Composition of the National Commission The 'National Commission' is a body of minimum five persons appointed by the Central Government. Legally, the National Commission shall consist of a President and at least four other members.

- (a) **President:** A person who is or has been a judge of the Supreme Court shall be the President of the National Commission. Thus, only the sitting or retired judges of the Supreme Court are eligible for appointment as President.
- (b) **Other members:** Apart from the President, the National Commission shall consist of at least four other members one of whom shall be a woman.

○ The qualifications for appointment of other members are:

(i) He/She must not be less than 35 year of age.

(ii) He/She must possess a bachelor's degree from a recognised university.

He/She must be a person of ability, integrity and standing and have adequate knowledge or experience of at least 10 years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

- **Appointment of the members of the National Commission [Section 20(1) (a) (b):**

The appointment of the President shall be made by the Central Government after consultation with the Chief Justice of India .The appointment of the other four members shall be made by the Central Government on the recommendation of the selection committee consisting of (a) sitting judge of the Supreme Court, (b) Secretary in the Department of Legal Affairs, Government of India, (c) Secretary of the Department dealing with consumer affairs in the Government of India

- **Disqualification of members** These disqualifications are the same as already discussed in case of members of District Forum and of State Commission. Any other disqualification may also be prescribed the Central Government.

- **Tenure of office of the members of the National Commission**

- The President or the members of the National Commission shall hold the office for a term of 5 year or up to the age of 70 years, whichever is earlier. Thus, in any case, a person cannot hold the office of President or that of a member beyond the age of 70 years.

- **Jurisdiction of the National Commission**

(a) Pecuniary jurisdiction: The National Commission has the jurisdiction to entertain complaints where the value of the goods or services and compensation, if any claimed exceeds rupees 1 crore. Prior to the Consumer Protection (Amendment) Act, 2002, the National Commission had the jurisdiction where the value of this claim exceeded rupees twenty lakhs.

(b) Appellate jurisdiction: The National Commission also has the appellate jurisdiction to entertain appeals against the order of any State Commission.

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