

CONSUMER PROTECTION ACT

Dr. A. Malleswari Devi
Associate Professor in Commerce
S. P. W. Degree & P. G. College
Tirupati.

Mrs. A. Devaki
Lecturer in Commerce
Govt. Degree College
Nagari.

ABSTRACT

Consumer protection is a group of [laws](#) and organizations designed to ensure the rights of [consumers](#) as well as [fair trade](#), competition and accurate information in the [marketplace](#). The laws are designed to prevent businesses that engage in [fraud](#) or specified unfair practices from gaining an advantage over competitors. They may also provide additional protection for those most vulnerable in. Consumer protection laws are a form of government [regulation](#), which aim to protect the rights of [consumers](#). society. . Consumer protection is linked to the idea of consumer rights, and to the formation of [consumer organizations](#), which help consumers make better choices in the marketplace and get help with [consumer complaints](#). In order to safeguard consumer interest, six [consumer rights](#) were initially envisioned by consumer rights activists of the West, namely: Right to Safety, Right to Information, Right to Choice, Right to be Heard, Right to Redress, Right to consumer education.

The Government understood the need to protect consumers from unscrupulous suppliers, and several laws have been made for this purpose. We have the Indian Contract Act, the Sale of Goods Act, the Dangerous Drugs Act, the Agricultural Produce (Grading and Marketing) Act, the Indian Standards Institution (Certification Marks) Act, the Prevention of Food Adulteration Act, the Standards of Weights and Measures Act, etc. which to some extent protect consumer interests. However, these laws require the consumer to initiate action by way of a civil suit involving lengthy legal process which is very expensive and time consuming.

The Consumer Protection Act provides means to protect consumers from getting cheated or harassed by suppliers. The Act has provided a machinery whereby consumers can file their complaints which will be entertained by the Consumer Forums with special powers so that action can be taken against erring suppliers and the possible compensation may be awarded to consumer for the hardships he has undergone. No court fee is required to be paid to these forums and there is no need to engage a lawyer to present the case.

Consumer Protection Councils. The Consumer Councils are created to advise and assist the consumers in seeking and enforcing their rights. We have Consumer Protection Councils both at Centre level and State level, that is one Central Council and many State Councils.

These councils work towards the promotion and protection of consumers. They make investigations and give publicity to the matters concerning consumer interests, take steps towards furthering consumer education and protecting consumer from exploitation, advice the Government in the matter of policy formulation keeping consumer interest as pivotal concern, etc. Although their suggestions are recommendatory in nature, but they have significant impact in policy making.

While deciding about the composition of these councils, the State keeps in mind that it should have proper

representation from all the possible areas affecting consumer interests. Again the rules as to when should these councils meet, what should they aim at, how they conduct their business are framed by the Government with a view to balance the efficacy and practicability of its business.

Objects of the Councils There is one basic thought that 'consumer need to be protected'. Another thought is - how he can be protected? The Act has provided for constitution of Consumer Councils for this purpose.

Now, when we say that these councils are there to protect the consumers, a question arises - consumers are protected against what? Thus the Act has detailed some rights of consumers which need to be protected by the councils. These are: Right to safety - It is right to be protected against the marketing of goods and services which are hazardous to life and property.

Right to information - It is right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, with a view to protect the consumer against unfair trade practices.

Right to choose - The right to choose can be made meaningful by ensuring access to a variety of goods and services at competitive prices.

Fair and effective competition must be encouraged so as to provide consumers with the widest range of products and services at the lowest cost.

Right to represent - It is right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums.

The Consumer Protection Act, 1986 has well taken care of this right by making available the instrumentality of Redressal Forums. Every consumer has a right to file complaint and be heard in that context.

Right to redressal - It is a right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers.

Right to education - The right to consumer education is a right which ensures that consumers are informed about the practices prevalent in the market and the remedies available to them.

For spreading this education, media, or school curriculum, or cultural activities, etc. may be used as a medium.

Note that the Central Council's object is to ensure these rights of the consumers throughout the country while the State Councils look to ensure these rights to consumers within their territories.

Central Council

Composition [Section 2 and rule 3] Members of the councils are selected from various areas of consumer interest, who are, when possible, leading members of statewide organisations representing segments of the consumer public so as to establish a broadly based and representative consumer council.

The Consumer Protection Act has authorised the Central Government to make rules as to the composition of the Central Council. Accordingly, the Central Government has provided that the Central Council shall consist of the following members not exceeding 150, namely:

1. the Minister in-charge of Consumer Affairs in the Central Government who shall be the Chairman of the

Central Council;

2. the Minister of State (where he is not holding independent charge) or Deputy Minister in-charge of Consumer Affairs in the Central Government who shall be the Vice-Chairman of the Central Council;
3. the Secretary in-charge of Consumer Affairs in the Central Government who shall be the member-secretary of the Central Council;
4. the Minister in-charge of Consumer Affairs in States;
5. eight Members of Parliament five from the Lok Sabha and three from the Rajya Sabha;
6. the Secretary of the National Commission for Scheduled Castes and Scheduled Tribes;
7. representatives of the Central Government Departments and autonomous organizations concerned with consumer interests not exceeding twenty;
8. representatives of the Consumer Organisations or consumers not less than thirty-five;
9. representatives of women not less than ten;
10. representatives of farmers, trade and industries not exceeding twenty;
11. persons capable of representing consumer interest not specified above not exceeding fifteen;

Vacancy - 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, are 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.

Term - The term of the Council is three years.

Meetings of the Central Council [Section 5 and rule 4] - Central Council is required to organise at least one meeting every year. In addition, it may meet as and when necessary. Time and place of the meeting is decided by the Chairman of the council.

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.

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.

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.

The resolutions passed by the Central Council are recommendatory in nature.

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.

State Consumer Protection Councils (State Councils) [Section 7]

Composition - The power to establish State Councils is with the States. The Act provides that the Minister

incharge of consumer affairs in the State Government shall be the Chairman of the State Council. About the number and qualifications of the rest of the members, State is the deciding authority.

Meetings - The State Council meet at least twice a year. In addition, it may meet as and when necessary. The council may meet at such time and place as the Chairman may think fit.

Procedure in regard to the transaction of its business is prescribed by the State Government.

Working Groups [Rule 3]

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.

The Consumer Protection Act provides for a 3 tier approach in resolving consumer disputes. There are three levels of consumer courts

First, there is the district court, called District Consumer Disputes Redressal Forum (District Forum),

Next comes the State Consumer Disputes Redressal Commission (State Commission),

At the national level, there is National Consumer Disputes Redressal Commission (National Commission).

District Forum and State Commission are formed by States with the permission of the Central Government while the National Commission is formed by the Central Government. These forums have not taken away the jurisdiction of the civil courts but have provided an alternative remedy.

The general rule is that if the court rendering the judgment suffers from want of jurisdiction, its judgment is nullity and may be ignored.

Jurisdiction of Consumer Forums (i.e., consumer courts) differ in terms of monetary value of claims, geographical area, and appellate powers.

District Forum

PECUNIARY JURISDICTION - District Forum entertains the cases where the value of claim is upto Rs. 5 Lakh. Where a claim exceed this limit, the matter is beyond the jurisdiction of the Forum.

This limit of Rs. 5 lakh is as to the value of claim filed by the party. Value of goods or services in question or value of relief granted is not relevant for this purpose.

TERRITORIAL JURISDICTION - Every District Forum has definite geographical limits within which it can exercise its jurisdiction. A case is supposed to fall within such territory when at the time of the institution of the complaint

- (a) The party against whom the claim is made actually and voluntarily resides or carries on business or has a branch office or personally works for gain in that area, or
- (b) Where there are more than one opposite party, each such party actually and voluntarily resides or carries on business or has a branch office or

State Commission

PECUNIARY JURISDICTION - State Commission entertains the cases where the value of claim exceeds Rs. 5 lakh. But where value of a claim exceed Rs. 20 lakh, the matter is beyond the jurisdiction of the Commission.

TERRITORIAL JURISDICTION - The Consumer Protection Act does not specifically provides for the territorial jurisdiction of the State Commission. Thus it is governed by the general principle of the law which are contained in section 20 of the Civil Procedure Code.

Broadly these principles are on the similar lines on which the territorial jurisdiction of District Forum is based. Thus a suit can be instituted in the State Commission within whose local limits

- (a) the party against whom the claim is made actually and voluntarily resides or carries on business or personally works for gain, or
- (b) where there are more than one opposite party, each such party actually and voluntarily resides or carries on business or personally works for gain, or
- (c) where there are more than one opposite party, and any such party actually and voluntarily resides or carries on business or has a branch office or personally works for gain, provided the other parties not so residing or working agrees, or the State Commission gives permission in this regard, or
- (d) the cause of action, wholly or in part, arises.

National Commission

PECUNIARY JURISDICTION - Since National Commission is the highest level of Consumer Forums, it may entertain all the matters where the value of claim exceeds Rs. 20 lakh.

TERRITORIAL JURISDICTION - The territorial jurisdiction of the National Commission is whole of India except the State of Jammu & Kashmir.

The Consumer Protection Act, 1986 has given powers to the Central and State Governments to make rules with regard to various aspects of the consumer protection machinery. In our discussion, we have included the Consumer Protection Rules, 1987 made by the Central Government, wherever required.

District Forum - Signing requirement - Section 14(2A) provides that every order made by the District Forum shall be signed by its President and the member or members who conducted the proceeding.

If there is difference of opinion between any two members, matter should be referred to the third member for a decision. And the decision of the majority would be final. Thus any order passed by a single member of the District Forum is not warranted.

State Commission - Signing requirement - Every order made by the State Commission shall be signed by its President and the member or members who conducted the proceeding.

If there is difference of opinion between any two members, matter should be referred to the third member for a decision. And the decision of the majority would be final.

National Commission - Signing requirement - Every order made by the National Commission must be signed by the president (or the senior most member acting as president), and at least two members who conducted the proceeding, and in case of any difference of opinion, the opinion of the majority shall be the order of the Commission.

Appeals against orders - 'Appeal' is a legal instrumentality whereby a person not satisfied with the findings of a court has an option to go to a higher court to present his case and seek justice. In the context of Consumer Forums -

1. An appeal can be made with the State Commission against the order of the District Forum within 30 days of the order which is extendable for further 15 days. [Section 15]
2. An appeal can be made with the National Commission against the order of the State Commission within 30 days of the order or within such time as the National Commission allows. [Section 19]
3. An appeal can be made with the Supreme Court against the order of the National Commission within 30 days of the order or within such time as the Supreme Court allows. [Section 23]

Finality of orders - Where no appeal has been preferred against the order made by the District Forum, or State Commission, or the National Commission, such order shall be final. [Section 24]

Penalties for non-compliance - Every order made by the District Forum or State Commission, or the National Commission may be enforced in the same manner as if it were a decree of the court. [Section 25]

All the persons - the trader, or complainant, or the opposite party, are supposed to comply with the orders. When any such person fails or omits to comply with the order, the District Forum, or State Commission, or the National Commission, as the case may be, may punish him with

- imprisonment for a term ranging between one month and three years, or
- with fine ranging between Rs. 2,000 and Rs. 10,000, or
- with both.

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