

THE CONSUMER PROTECTION ACT, 1986¹

[No. 68 of 1986]

[Enacted on 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 therewith.

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

Notes—Statement of Objects and Reasons.—the Consumer Protection Bill, 1986 seeks 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 consumer disputes and for matters connected therewith.

2. It seeks, *inter alia* to promote and protect the rights of consumers such as—

- (i) the right to be protected against marketing of goods which are hazardous to life and property;
- (ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices;
- (iii) the right to be assured, wherever possible, access to variety of goods at competitive prices;
- (iv) the right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums;
- (v) the right to seek redressal against unfair trade practice or unscrupulous exploitation of consumers; and
- (vi) right to consumer education.

3. These objects are sought to be promoted and protected by the Consumer Protection Councils to be established at the Central and State levels.

4. To provide speedy and simple redressal to consumer disputes; a *quasi-judicial* machinery is sought to be set up at the district, State and Central levels. These *quasi-judicial* bodies will observe the principles of natural justice and have been empowered to give reliefs of a specific nature and to award, wherever appropriate, compensation to

1. Ins. by Act II of 1923 Section 2 and Sch. I.

2. Ins. by Act XI of 1920, Section 2 and Sch. I.

3. Received the assent of the President on December 24, 1986 and published in the *Gazette of India, Extraordinary*, Part II, Section II, dated 26th December, 1986, at pp. 1-12.

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Penalties for non-compliance of the orders given by the consumer judicial bodies have also been provided.

CHAPTER I Preliminary

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,—

“(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

(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 Government 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;]

“(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 activity 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 make a complaint;

“(iv) ‘one or more consumers, where there are numerous consumers having the same interest’]

(c) ‘complaint’ means any allegation in writing made by a complainant that

“(i) an unfair trade practice or a restrictive trade practice has been adopted by any trader;]

“(ii) [the goods bought by him or agreed to be bought by him] suffer from one or more defects;]

Sub: by A. No. 50 of 1993 Section 2

In: 13 Act, no. 50 of 1993 Section *

In: 2 Act, no. 50 of 1993

Sub: by A. No. 50 of 1993 Section 2

In: 13 Act, no. 50 of 1993 Section

U.P. COMMODITY CONTROL ORDERS

- (iii) ¹[the services hired or availed of or agreed to be or availed of by him] suffer from deficiency in respect;
- (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;
- ²(v) goods which will be hazardous to life and safety when used, are being offered for sale to the public 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.³

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

(d) 'consumer' means any person who :—

- (i) buys and 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 or such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) ⁴[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 ⁵[hires or avail of] the services for consideration paid or promised, or partly paid or partly promised, or under any system of deferred payment when such services are availed of which the approval of the first mentioned person;

⁶[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.];

- (e) 'consumer dispute' means a dispute where the person against whom 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 ⁷[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;

1	Subs. by Act No. 50 of 1993 Section 2
2	Ins. by Act No. 50 of 1993 Section 2
3	Subs. by Act No. 50 of 1993 Section 2
4	Subs. by Act No. 50 of 1993 Section 2
5	Subs. by Act No. 50 of 1993 Section 2
6	Subs. by Act No. 50 of 1993 Section 2

- (b) 'District Forum' mean a Consumer Disputes Redressal Forum established under Clause (a) of Section 9;
- (c) 'goods' means goods as defined in the Sale of Goods Act, 1930 (3 of 1930);
- (d) 'manufacturer' means a person who—
 - (i) makes or manufactures goods or parts thereof; or
 - (ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others and claim the end-product to be goods manufactured by himself; or
 - (iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer and claims such goods to be goods manufactured by himself.

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

- (e) 'member' includes the President and a member of the National Commission or a State Commission or a District Forum, as the case may be;
- (f) 'National Commission' means the National Consumer Disputes Redressal Commission established under Clause (c) of Section 9;
- (g) 'notification' means a notification published in the official Gazette;
- (h) '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;
- (i) 'prescribed' means prescribed by rules made by the State Government, or as the case may be, by the Central Government under this Act;
- (j) 'restrictive trade practice' means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be services as a condition precedent for buying, hiring or availing or other goods or services;
- (k) 'service' means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, boarding or lodging combined with 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;
- (l) 'State Commission' means a Consumer Disputes Redressal Commission established in a State under Clause (b) of Section 9;

1. Ins. by Act No. 50 of 1993 Section 2.

2. Ins. by Act No. 50 of 1993.

3. Ins. by Act No. 50 of 1993.

- (g) '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 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, 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 sponsorships, 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 price 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 price 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 expressed, made or contained;

- (2) permits the publication of any advertisement whether in any newspapers or otherwise, of 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 purposes of Clause (2), 'bargaining price' means—

- (a) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise; or
- (b) a price that a person who reads, hears or sees the advertisement, would reasonable 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 the consumer with any real benefit or creating any illusion that something is being given or offered free of charge when it is fully or partly covered by the amount charge in the transaction as a whole;
- (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;
- (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.

(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.

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 may, 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 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 ²[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—

- (a) the right to be protected against the marketing of goods ¹[and service] which are hazardous to life and property;
- (b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods ⁴[or service] so as to protect the consumer against unfair trade practices;
- (c) the right to be assured, wherever possible, access to a variety of goods ⁴[and service] at competitive prices;
- (d) the right to be heard and to be assured that ⁵consumer interests receive due consideration at appropriate forums;
- (e) the right to seek redressal against unfair trade practices ⁶[or restrictive trade practices] or unscrupulous will exploitation of consumers; and
- (f) the right to consumer education;

7. The State Consumer Protection Councils.—(1) The State Government may, 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;

1. Subs. by Act No. 5 of 1993 (w.e.f. 18-6-1993).
2. Subs. by Act No. 5 of 1993 (w.e.f. 18-6-1993).
3. Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
4. Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
5. Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
6. Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
7. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993).

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

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.

CHAPTER III

Consumer Disputes Redressal Agencies

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

(a) a Consumer Disputes Redressal Forum to be known as the 'District Forum' established by the State Government [xxx] 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 [xxx] by notification; and

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

10. **Composition of the District Forum.**—["(1) Each District Forum shall consist of,—

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

(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."

(2) 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.

Omitted by Act No. 5 of 1993

Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

Omitted by Act No. 5 of 1993

Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

(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.

(3) The salary 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.

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 exceed rupees five 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 as] 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 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 '[carries on business, or have a branch office] personally work for gain, as the case may be acquiesce in such institution; or
- (c) the cause of action, wholly or in part, arises.

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 be 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 purposes of this section, 'recognised consumer association' means any voluntary consumer association registered under the Companies Act, 1956 (1

1. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
2. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
3. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
4. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993).
5. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993).

of 1956) or any other law for the time being in force.'

13. Procedure on receipt of complaint.—(1) The District Forum shall on receipt of a complaint, if it relates to any goods,—

- (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;
- (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 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 suffer from any other defect and to report its findings thereon to the District Forum within a period of forty five days 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 of otherwise or the report made by the appropriate laboratory and also use 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 complaint received 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 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 allegation contained in the complaint, or omits or fails to take any action to represent his case within the time given by 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) 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.

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

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

- (i) the summoning and enforcing 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 (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 (20 of 1974).

[(6) Where the complainant is a consumer referred to in Sub-section (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.]

NOTES

Sections 27 to 32 of the Civil Procedure Code are given below :

27. *Summons to defendants*.—Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed.

28. *Service of summons where defendant resides another State*.—(1) A summons may be sent of service in another State to such Court and in such manner as may be

prescribed by rules in force in that State.

(2) The Court to which such summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue together with the record (if any) of its proceedings with regard thereto.

(3) Where the language of the summons sent for service in another State is different from the language of the record referred to in Sub-section (2); a translation of the record,—

- (a) a Hindi, where the language of the Court issuing the summons is Hindi,
- (b) a Hindi or English where the language of such record is other than Hindi or English.

shall also be sent together with the record sent under that sub-section.

29. *Service of foreign summons.*—Summons and other processes issued by—

- (a) any Civil Revenue Court established in any part of India to which the provisions of this Code do not extend, or
- (b) any Civil or Revenue Court established or continued by the authority of the Central Government outside India, or
- (c) any other Civil or Revenue Court outside India to which the Central Government has by notification in the official Gazette declared the provisions of this section to apply.

may be sent to the Courts in the territories to which this Code extends, and served as if they were summons issued by such Courts.

30. *Power to order discovery* *the like.*—Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party,—

- (a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, impounding and return of documents of other, material objects producible as evidence;
- (b) issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;
- (c) order any fact to be proved by affidavit.

31. *Summons to witness.*—The provisions in Sections 27, 28 and 29 shall apply to summons is to give evidence or to produce documents or other material objects.

32. *Penalty for default.*—The Court may compel the attendance of any person to whom a summons has been issued under Section 30 and for that purpose may

- (a) issue a warrant for his arrest;
- (b) attach and sell his property;
- (c) impose a fine upon him not exceeding five hundred rupees;
- (d) order him to furnish security for his appearance and in default commit him to the civil prison.

Section 145, CrPC 1973.—Section 195, CrPC is given below—

195. Prosecution for contempt of lawful authority of public servant for offences against public justice and for offences relating to documents given in evidence.—(1) No Court shall take cognizance—

- (a) (i) of any offence punishable under Sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or
- (ii) of any abetment of, or attempt to commit, such offence, or
- (iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

- (c) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, Sections 193 to 196 (both inclusive) 199, 200, 205 to 211 (both inclusive) and 228 when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or
- (ii) of any offence described in Section 463, or punishable under Section 471, Section 475 or Section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or
- (iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in Sub-clause (i) or Sub-clause (ii),

except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by public servant under Clause (a) of Sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint :

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In Clause (b) of Sub-section (1), the term 'Court' means a Civil, Revenue or Criminal Court and includes a Tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purpose of this section.

(4) For the purposes of Clause (b) of Sub-section (1), a Court shall be deemed to be subordinate to be Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the Principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court situate :

Provided that—

- (a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;
- (b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

14. Filing 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

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in the complaint about the services are proved, it shall issue an order to the opposite party directing him to '[do] 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 charges paid by the complainant;
- (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss of injury suffered by the consumer due to the negligence of the opposite party;
- ²(e) to remove the defects of 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;
- (i) to provide for adequate costs to parties'.

³“(2) Every proceeding referred to in Sub-section (1) shall be conducted by the resident of the District Forum and at least one member thereof sitting together :

Provided that where the member, for any reason, is unable to conduct the proceeding till it is the concluded, the President and the other member shall conduct such proceeding *de novo*.

(2-A) Every order made by the District Forum under Section (1) shall be signed by its President and the member or members who conducted the proceeding :

“(3) If the members of the District Forum, sitting together, are divided 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 members of the District Forum, its sittings and other matters shall be such as may be prescribed by the State Government.

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 filing it within that period.

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

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

1. Subv. by Act No. 50 of 1993 (w.e.f. 18.6.1993).

2. Ins. by Act No. 50 of 1993 (w.e.f. 18.6.1993).

3. Subv. by Act No. 50 of 1993 (w.e.f. 18.6.1993).

[Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of the High Court;

- (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 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. |
| (iii) Secretary in charge of the Department dealing with consumer affairs in the State | —Members. |

(2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service ¹[x x x x] of, the members of the State Commission shall be such as may be prescribed by the State Government.

²[(3) Every member of the State Commission shall hold office for a term of five or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment.

(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.

17. Jurisdiction of the State Commission.—Subject to the other provisions of this Act, the State Commission shall have jurisdiction—

- (a) to entertain—
- complaints where the value of the goods or services and compensation, if any claimed exceeds rupees ³[five lakhs but does not exceeds rupees twenty lakhs]; and
 - 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 ⁴—, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

18. Procedure applicable to State Commissions.—The ⁵[provisions of Sections 12, 13 and 14 and the rules made thereunder for disposal of complaints by the District Forum shall, with such modification as may be necessary, be applicable to the disposal of disputes by the State Commission.

1 Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993)
 2 Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993)
 3 Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993)
 4 Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993)
 5 Ins. by Act. 32 of 1991 (w.e.f. 15-8-1991)

["18-A. **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."

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 the thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

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:]

(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, 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 in the Department dealing with consumer affairs in the Government of India —Member;]"

(2) The salary or honorarium and other allowances payable to and the other terms and condition of service [x x x x] 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 and shall not be eligible for re-appointment.

4) Notwithstanding anything contained in Sub-section (3), a person appointed as a President or 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.]

6 Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

1 ins. by Act 34 of 1991 (w.e.f. 18-6-1991)

2 ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

3 Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

4 Amended by Act No. 50 of 1993 (w.e.f. 18-6-1993)

5 ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

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 [twenty lakhs]; and
 - (ii) appeals against the orders of any State Commission; 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 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.

22. Power of and 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-sections (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 (1) of Section 14;

and follow such procedure as may be prescribed by Central Government.]

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 is sufficient cause for not filing it within that period.

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

[2-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 complaint satisfies the District Forum, the State Commission or the National Commission, as 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 Commission in the following matters, namely :—

1. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993)
2. Ins. by Act No. 50 of 1993 (w.e.f. 18-6-1993)
3. Subs. by Act No. 50 of 1993 (w.e.f. 18-6-1993)

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- (i) calling for periodical returns 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 Commission or the District Forum, 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 Forum within its jurisdiction in all matters referred to in Sub-section (1).

25. Enforcement of orders by the District Forum, the State Commission or the National Commission.—Every order made by the District Forum, the State Commission or the National Commission may be enforced by the District Forum, the State Commission or the National Commission, as the case may be, in the same manner as if it were decree or order made by a court in a suit pending therein and it shall be lawful for the District Forum, the State Commission or the National Commission to send, in the event of its inability to execute it, such order to the Court within the local limits of whose jurisdiction,—

- (a) in the case of an order against a company, the registered office of the company is situated, or
- (b) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated

and the reupon, the court to which the order is so sent, shall execute the order as if it were a decree or order sent to it for execution.

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 complaint shall pay to the opposite party such, not exceeding ten thousand rupees, as may be specified in the order.]

27. Penalties.—Where a trader or a person against whom a complaint is made [or the complaint] fails or omits 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 [or the complaint] 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 :

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

1. Subs. by Act No. 30 of 1993 (w.e.f. 18-6-1993)

2. As by Act No. 51 of 1993 (w.e.f. 18-6-1993)

3. As by Act No. 51 of 1993 (w.e.f. 18-6-1993)

CHAPTER IV

Miscellaneous

28. Protection or 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 of 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.

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, made 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.

"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, Clause (iv) of Sub-section (4) of Section 13, Section 19, Sub-section (2) of Section 20 and Section 22 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] Sub-section (3) of Section 10, Clause (c) of Sub-section (1) of Section 13, Sub-section (3) of Section 14, Section 15 and Sub-section (2) of Section 16.

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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in the making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or 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.

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

Section 5 of Consumer Protection (Amendment) Act No. 34 is given below

Ins. by Act No. 50 of 1993 (w.e.f. 18.6.1993)

Ins. by Act No. 50 of 1993 (w.e.f. 18.6.1993)

5. **Validation of certain orders, etc.**—Notwithstanding anything contained in any law or any judgment, decree or order of any court, tribunal or other authority, any order made by the District Forum or the State Commission under the principal Act, would have been validly made if the amendments made to the principal Act by this Act were in force on the date of such order, shall be deemed to have been validly made as if the amendments made to the principal Act by this Act were in force at all material times when such order was made.

U.P. CONSUMER PROTECTION RULES, 1987

Notification No. CP-72/XXIX-10-CP, (8)-87, dated August 31, 1987, published in the U.P. Gazette, Extraordinary, Part-4 Section (kha), dated 31st August, 1987, at pp. 6-11.

In exercise of the powers under Sub-section (2) of Section 30 of the Consumers Protection Act, 1986 (Act No. 68 of 1986), the Governor is pleased to make the following Rules namely :—

1. **Short title and commencement.**—These rules may be called the Uttar Pradesh Consumers Protection Rules, 1987.

(1) 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 or appeal or reply on its behalf before the State commission or the District Forum;
- (c) 'appellant' means a party which makes an appeal against the order of the District Forum;
- (d) 'memorandum' means memorandum of appeal filed by the appellant;
- (e) 'opposite party' means a person who answers complaint or claim;
- (f) 'president' means the President of the State Commission or District Forum as the case may be;
- (g) 'respondent' means the person who answers any memorandum of appeal;
- (h) 'state' includes union territories.

3. **Salaries and other allowances and terms and conditions of the president and members of the District Forum [Section 10(3)].**—(1) The president of the district Forum shall receive the salary of the Judge of a District Court if appointed on whole time basis or an honorarium of Rs. 150 per day if appointed on part-time basis. Other members if sitting on whole time basis, shall receive a consolidated honorarium of Rs. 2,000 per month and if sitting on part-time basis, a consolidated honorarium of Rs. 100 per day for the sitting.

(2) The President and the members of the District Forum shall be entitled for such travelling allowance and daily allowance on official tour as are admissible to Grade I officers of the State Government.

3. The salary, honorarium and other allowances shall be defrayed out of the Consolidated Fund of the State Government.

(4) Before appointment, the President and members of the District Forum shall have to take an undertaking that he does not and will not have any such financial or other interests as is likely to affect prejudicially his function as a member.

(5) In addition to provisions of Section 10(2), State Government may remove from the office, the president and member of the District Forum who—

- (a) has been adjudged an insolvent;

- (b) has been convicted of an offence which in the opinion of the State Government, involved moral turpitude; or
- (c) has become physically or mentally incapable of acting as such member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest :

Provided that the President or member shall not be removed from his office on the ground specified in Clauses (d) and (e) of the Sub-rule (5) except on an inquiry held by State Government in accordance with such procedure as it may specify in this behalf and finds the member to be guilty of such ground.

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

(7) Where any vacancy occurs in the office of the President of the District Forum, the seniormost (in order of appointment) member of the District Forum, holding office for the time being, shall discharge the function of the president until a person appointed to fill such vacancy assumes the office of the President of the District Forum.

(8) When the President of the District Forum is unable to discharge the functions owing to absence, illness or any other cause the seniormost (in order to the appointment) member of the District Forum shall discharge the functions of the President until the day on which the president resumes the charge of his functions.

(9) The President or any member ceasing to hold office as such shall not hold any appointment in or be connected with the management of administration of an organisation which have 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.

4. Place of sitting and other matters relating to District Forum [Section 14(3)].—(1) The office of the District Forum shall be located at the head quarter of the District. Where State Government decides to establish a single District Forum having jurisdiction over more than one district it shall notify the place and jurisdiction of the District Forum so established.

(2) The working days and the office hours of the District Forum shall be the same as that of the State Government.

(3) The official seal and emblem of the District Forum shall be such as the State Government may specify.

(4) Sitting of the District Forum, as and when necessary, shall be convened by the President.

(5) No act or proceedings of the District Forum shall be invalid by reason only of the existence of any vacancy among its members or any defect in its Constitution.

(6) State Government shall appoint such staff, as may be necessary to assist the District Forum in its day to day work and perform such other functions as are provided under these rules, or assigned to it by the president. The salary payable to such staff shall be defrayed out of the Consolidated Fund of the State Government.

(7) Where the opposite party admits the allegation made by the complainant, the District Forum shall decide the complaint on the basis of the merit of the case and the document present before it.

(8) If during the proceedings conducted under Section 13, District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party or its authorised agent to appear before the District Forum on such date of hearing or any

other date to which hearing could be adjourned. Where the complainant or his authorised agent fails to appear before the District Forum on such day, the District Forum may in its discretion either dismiss the complaint for default or decide it on merit. Where the opposite party or its authorised agent fails to appear on the day of hearing, the District Forum may decide the complaint *ex parte*.

(9) While proceeding under Sub-rule (8) the District Forum may, on such terms as it may think fit and at any stage, adjourn the hearing of the complainant but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party where complaint does not require analysis or testing of the goods and within 150 days if it requires analysis or testing of the goods.

(10) Orders of the District Forum shall be signed and dated by the members of the District Forum constituting the bench and shall be communicated to the parties free of charge.

5. Procedure to be adopted by the District Forum for analysis and testing of the goods [Section 13(1)(c)].—(1) Under Section 13(1)(c) if considered necessary, the District Forum may direct the complainant to provide more than one sample of the goods in clean containers with stopper properly fixed on them.

(2) On receiving the sample of such goods, the District Forum shall seal it and fix labels on the containers carrying following information,—

- (i) name and address of the appropriate laboratory to whom sample will be analysis and test;
- (ii) name and address of the District Forum;
- (iii) case number;
- (iv) seal of the District Forum.

(3) The sample will be sent to the appropriate laboratory by the District Forum for sending report within 45 days or within such extended time as may be granted by the District Forum after specifying the nature of the defect alleged and date of submission of the report.

6. Salary and other allowances and terms and conditions of the President and members of the State Commission [Section 16(2)].—(1) President of the State Commission shall receive the salary of the Judge of the High Court if appointed on whole-time basis or a consolidated honorarium of Rs. 200 per day for the sitting if appointed on part-time basis. Other members, if sitting on whole-time basis, shall receive a consolidated honorarium of Rs. 3,000 per month and if sitting on part-time basis, a consolidated honorarium of Rs. 150 per day of sitting.

(2) The President and the members of the State Commission shall be eligible for such travelling allowance and daily allowance on official tour as are admissible to Grade-I Officer of the State Government.

(3) The salary, honorarium, other allowances shall be defrayed out the Consolidated Fund of the State Government.

(4) (a) President of the State Commission shall hold office for a term of five years or upto the age of 70 years whichever is earlier and shall not be eligible for re-nomination;

(b) the member of the State Commission shall hold office for a term of five years or upto the age of 65 years whichever is earlier and shall not be eligible for re-nomination :

Provided that President and member may—

- (a) by writing under his hand and address to the State Government resign his office any time.
 - (b) be removed from his office in accordance with provisions of Sub-rule (5)]
- (5) The State Government may remove from office, President or a member of the State Commission who—
- (a) has been adjudged an insolvent; or
 - (b) has been convicted of an offence which in the opinion of the State Government, involves moral turpitude, or
 - (c) has become physically or mentally incapable of acting as such member, or
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his function as a member, or
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest :

Provided that the President or a member shall not be removed from his office on the ground specified in Clauses (d) and (e) of Sub-rule (5) except on an inquiry held by State Government in accordance with such procedure as it may specify in this behalf and finds the member to be guilty of such ground.

- (6) Before appointment, President and a member of the State Commission shall have to take an undertaking that he does not and will not have any such financial or other interests as is likely to affect prejudicially his function as such member.
- (7) The terms and conditions of the service of the President and the members of the State Commission shall not be varied to their disadvantage during their tenure of office.
- (8) Every vacancy caused by resignation and removal of the President or any other member of the State Commission under Sub-rule (4) or otherwise shall be filled by fresh appointment.
- (9) Where any such vacancy occurs in the office of the President of the State Commission, the seniormost, (in order of appointment) member, holding office for the time being, shall discharge the functions of the President until a person appointed to fill such vacancy assumes the office of the President of the State Commission.
- (10) When the President of the State Commission is unable to discharge the functions owing to absence, illness or any other cause, the seniormost (in order to the appointment) member of the State Commission shall discharge the functions of the President until the day on which the President resumes the charge of his functions.
- (11) The President or any other member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administrations of an organisation which have been the subject of any prevailing under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

7 Place of sitting and other matters relating to State Commission
[Section 14(3) read with Section 18].—(1) Office of State Commission shall be located at the capital of the State.

- (2) The working days and the office hours of the State Commission shall be the same as that of the State Government.
- (3) The official seal and emblem of the State Commission shall be such as the State Government may specify.
- (4) Sitting of the State Commission, as and when necessary, shall be convened by the President.
- (5) No act or proceedings of the State Commission shall be invalid by reasons only of the existence of any vacancy among its members or any defect in its constitution thereof.

(6) State Government shall appoint such staff, as may be necessary to assist the State Commission in its work and perform such other functions as are provided under these rules or assigned to it by the President. The salary payable to such staff shall be defrayed out of the Consolidated Fund of the State Government.

(7) Where the opposite party admits the allegation made by the complainant, the State Commission shall decide the complaint on the basis of the merit of the case and documents present before it.

(8) If during the proceedings conducted under Section 13, State Commission fixes a date for hearing of the parties. It shall be obligatory on the complainant and opposite party or his authorised agent to appear before the State Commission on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorised agent fails to appear before the State Commission on such day, the State Commission may in its discretion either dismiss the complaint for default or decide it on merits where the opposite party or its authorised agent fails to appear on the day of hearing, the State Commission may decide the complaint *ex parte*.

(9) While proceedings under Sub-rule 8 the State Commission may, on such terms as it may think fit and at any state, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party where complaint does not require analysis or issuing of the goods and within 150 days if it requires analysis or testing of the goods.

(10) Orders of the State Commission shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

8. Procedure for hearing appeal (Section 15).—(1) Memorandum shall be presented by the appellant or his authorised agent to the State Commission in person or 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 ground shall be numbered consecutively.

(3) Each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of period of limitation as specified in the Act, memorandum shall be accompanied by an application supported by an affidavit setting forth the fact on which appellant relies to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies of the memorandum to the State Commission for official purposes.

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

(7) The appellant shall not, except by leave of the State Commission, urge or be heard in support of any ground of objections not set forth in the memorandum but the State Commission, in deciding the appeal, shall not confine to the ground of objection set forth in the memorandum or taken by leave of the State Commission under this rule:

Provided that the Commission shall not rest its decision on any other ground unless the party who may be affected thereby, has been given, at least one opportunity of being heard by the State Commission.

(8) State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of appeal, but not more than one adjournment shall ordinarily be given and the appeal should be decided within 90 days from the first date of hearing.

(9) Order of the State Commission on appeal shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.
