

DRAFT BILLS

(CONSUMER GOODS—TESTING OF QUALITY)

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THE CONSUMER GOODS

(TESTING OF QUALITY) BILL.....198....

A BILL to make provision for the testing of the quality of certain goods, in the interests of consumers.

Consumer Protection Law in India

Be it enacted by Parliament in the year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Consumer Goods (Testing of Quality) Act, 198....

(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 in the Official Gazette, appoint in this behalf.

Interpretation

2. In this Act, unless the context otherwise requires, —

(a) “prescribed” means prescribed by rules made under this Act;

(b) “Public Analyst” means a Public Analyst appointed under this Act;

(c) “specified goods” means goods to which this Act applies for the time being; and

(d) words and expressions used but not defined in this Act, but defined in the Sale of Goods Act, 1900, have the meanings respectively assigned to them in that Act.

Goods to which this Act applies

3. (1) This Act applies in the first instance to all electrical appliances, the manufacture of which is subject to the provisions of the Industries (Development and Regulation) Act, 1951, for the time being.

(2) The Central Government may, by notification in the Official Gazette and subject to the provisions of this section, declare that the provisions of this Act shall apply also to such goods as may be mentioned in the notification.

(3) No notification shall be issued under this section in respect of any goods unless a law regulating the production of such goods is within the legislative competence of Parliament.

(4) The issue of a notification under this section shall be subject to the condition of previous publication, and the provisions of the General

Clauses Act, 1897, shall apply in relation to such notification as they apply in relation to rules which are subject to the condition of previous publication, the minimum period of pre-publication for this purpose being three months.

(5) No such notification shall be issued except on the recommendation of the Advisory Council constituted under section 9.

CHAPTER II

TESTING OF GOODS

Testing of quality

4. (1) Where, in an agreement for the sale of goods to which this section applies, —

- (a) there is an express term as to the quality of the goods to be delivered thereunder, being a term which adopts any standard laid down by or under any enactment for the time being in force, or
- (b) a condition or warranty as to such quality is implied by or under any enactment for the time being in force,

then the purchaser to whom the goods have been delivered under such agreement may make an application in writing to the Public Analyst for testing the goods with reference to such term, condition or warranty, as the case may be:

(2) This section applies to every agreement for the sale of specified goods at retail.

Contents of the application, and fees

5. (1) Every application under section 4 shall specify, in reasonable detail, —

- (a) the names and addresses of the purchaser and the seller;
- (b) the goods purchased, and the price paid;
- (c) the date of purchase;
- (d) the term, condition or warranty which may be applicable, and in what respects it has been violated.

(2) The application shall further state that a copy thereof has been delivered or posted to the seller on a date to be mentioned in the application.

(3) The application shall be accompanied by the prescribed fee.

Consumer Protection Law in India

Testing and report by Public Analyst

6. (1) On receipt of the application mentioned in section 4 and on being satisfied that the application is in all respects in accordance with the provisions of this Act, the Public Analyst shall test the goods for ascertaining whether the goods are in accordance with the term, condition or warranty specified in section 4.

(2) For the purpose of holding such test, the Public Analyst shall take, from the purchaser, a sample of the goods after giving at least one week's notice to the purchaser and the seller of his proposal to take such sample, and such notice shall specify the date, time and place fixed for taking the sample.

(3) On completion of the test, the Public Analyst shall record his report under his signature, copies whereof shall be posted by him to the purchaser as well as to the seller.

(4) The Public Analyst may decline to give a report and direct refund of the fees to the applicant, if for reasons to be recorded, it is impracticable to conduct a test of quality in the circumstances of the case.

(5) The Public Analyst shall record his report within two months of the application, except where prevented by unavoidable cause from doing so.

Use of report in evidence

7. The report of the Public Analyst recorded under section 6 shall be admissible in evidence of the matters to which it relates in any suit between the purchaser and the seller arising out of the agreement for sale to which the report relates, without summoning the Public Analyst in court; but nothing in this section shall affect the right of any party to any such proceeding to examine or cross-examine the Public Analyst in court.

In appropriate cases the goods themselves may have to be taken.

CHAPTER III

MISCELLANEOUS

Appointment of Public Analysts

8. (1) The Central Government may, by notification in the Official Gazette, appoint, as Public Analysts for the purposes of this Act, such number of persons as may be needed.

(2) Such Public Analysts may be appointed for particular classes of goods or particular industries, as may be considered appropriate.