

**THE DELHI CONSUMER (PURCHASE) DISPUTES
COUNCIL BILL, 1984**

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THE DELHI CONSUMER (PURCHASE) DISPUTES COUNCIL BILL, 1984

A BILL to establish a Consumer (Purchase) Disputes Council in Delhi for the purpose of settling disputes between buyers and sellers.

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

CHAPTER I

PRELIMINARY

Short Title extent and Commencement

1. (1) This Act may be called the Delhi Consumer (Purchase) Disputes Council Act, 1984.

(2) It extends to the whole of the Union Territory of Delhi.

(3) It shall come into force on such date as the Administrator may by notification in the official Gazette appoint.

Definitions

2. In this Act unless the context otherwise requires:

- (a) "Act" means the Delhi Consumer (Purchase) Disputes Council Act, 1984;
- (b) "Administration" means the Administration of the Union Territory of Delhi;
- (c) "Administrator" means the Administrator of the Union Territory of Delhi, appointed by the President under Article 239 of the Constitution;
- (d) "Chairman" means the Chairman of the Council;
- (e) "Consumer" means any person or body of persons, whether incorporated or not, who purchases any article or goods for consumption or use and not for resale;
- (f) "Consumer purchase" means the purchase of any article or goods, other than a handicraft, by a consumer.
- (g) "Council" means the Delhi Consumer (Purchase) Disputes Council established under section 3 (1);
- (h) "Delhi" means the Union Territory of Delhi;
- (i) "Delhi Metropolitan Council" means the Metropolitan Council established under the Delhi Administration Act, 1966.
 - (ii) "Dispute" means dispute between a consumer and a seller or a manufacturer as to the quality or quantity of any article or goods;
- (j) "Manufacturer" means a person who, or a body of persons whether incorporated or not which produces, makes or manufactures any article or goods other than handicrafts, and includes a person or a body of persons, whether incorporated

or not who or which puts or causes to be put, any mark on any article or goods other than handicrafts not produced, made or manufactured by him, but the mark claims that article or goods to be produced, made or manufactured by such person or a body of persons as the case may be”.

- (k) “Member” means a member of the Council and includes its Chairman;
- (l) “Newspaper” means any printed periodical work containing public news or comments on public news, as defined in the Press and Registration of Books Act, 1967.
- (m) “Notification” means a notification published in the Official Gazette;
- (n) “Official Gazette” means the Delhi Gazette;
- (o) “Prescribed” means prescribed by rules made under this Act;
- (p) “Rules” means rules made under this Act;
- (q) “Sale” with its grammatical variations and cognate expressions means transfer of any product by a seller to a consumer for cash or on credit or for deferred payment or for any other valuable consideration and whether by wholesale or retail.
- (r) “Secretary” means Secretary to the Council and includes any other person for the time being performing the duties of the Secretary;
- (s) “Section” means a section of this Act;
- (t) “Seller” includes both a wholesaler and a retailer.

CHAPTER II

ESTABLISHMENT OF THE DELHI CONSUMER (PURCHASE) DISPUTES COUNCIL

Incorporation of the Council

3. (1) With effect from such date as the Administrator may, by notification in the official Gazette, appoint, there shall be established a Council by the name of the Delhi Consumer (Purchase) Disputes Council.

(2) The Council shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and shall by the said name sue and be sued.

Composition of the Council

4. (1) The Council shall consist of a Chairman and eight other

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members to be appointed by the Administrator in accordance with the rules.

(2) The Chairman shall be a wholetime officer and shall be paid such salary as the Administrator thinks fit.

(3) Other members shall receive such conveyance allowance for attending the meetings of the Council as may be prescribed by the Administrator.

(4) Of the eight members, four shall have a special insight into purchasers' interests involved in consumer purchase and four shall have particular insight into sellers' interest.

Term of Office

5. (1) The Chairman and the members shall hold office at the pleasure of the Administrator.

(2) The Chairman and the members shall hold office for a period of four years and shall be eligible for reappointment after the expiry of that term.

Vacation of seat

6. (1) The Chairman or a member may resign his seat by writing under his hand addressed to the Administrator and on such resignation being accepted, his seat shall become vacant.

(2) A member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive meetings of the Council.

Staff of the Council

7. (1) The Council may appoint a secretary and such other employees as it may think necessary for the efficient performance of its functions under this Act.

(2) The terms and conditions of service of the employees shall be such as may be determined by regulations made by the Council.

CHAPTER III

POWERS AND FUNCTIONS OF THE COUNCIL

General powers of the Council

8. (1) For the purposes of performing its functions, the Council shall have the same powers as are vested in a civil court while trying a

suit under the code of Civil Procedure, 1908, in respect of the following matters:

- (a) summoning and enforcing the attendance of persons and examining them on oath;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence of affidavits; and
- (d) any other matter which may be prescribed.

Sphere of competence

9. (1) The Council shall deal with disputes concerning consumer purchases.

(2) The Council shall not assist in enforcement of claims acknowledged by the opposing party.

(3) The Council shall not deal with the purchase of real estate.

(4) The Council shall decide with final effect whether a purchase shall be considered a consumer purchase under this Act and whether a dispute in other respects falls under the Councils sphere of competence under this section.

(5) The Council may dismiss a dispute if it lies outside its sphere of competence.

(6) The Council shall also deal with dispute where the consumer has complaint to the opposing party without leaving to a settlement.

Petition to the Council

10. (1) Any consumer may bring a dispute over a consumer purchase by a written petition to be dealt with by the Council in accordance with the provisions of this Act and the rules made thereunder.

(2) The petition shall be submitted in writing, shall contain the names of both parties to the dispute, the claims made as well as an affidavit in support of the claim and it shall be dated and signed.

(3) The Council shall, through guidance and advice after the parties have had an opportunity to express their views, try to arrive at solutions that are acceptable to both the consumer and the seller and if it finds that the possibility of an amicable solution does not exist, it shall proceed further with the case.

(4) The Council shall at each stage of its treatment of the case assume a neutral and impartial stand and shall not act as a representative of any party to a dispute.

Procedure to deal with cases

11. (1) The Chairman shall fix the time and place of meetings of the Council.

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(2) When dealing with individual cases the Council shall consist of the Chairman, or by proxy, and two members who shall have a special insight into the purchaser's interests and seller's interests respectively that are involved in consumer purchases.

(3) The Chairman in an individual case shall be the Council's Chairman or the Chairman's proxy.

(4) The Chairman shall decide the composition of the Council in an individual case and shall ensure that members serve on such Council by turns, unless there are special reasons to act otherwise.

(5) If a member of the Council believes that he is not qualified to participate in a case, he shall give notice to this effect, as soon as possible, after being summoned to the meeting.

(6) When the Chairman feels that a member is not qualified, he shall notify the proxy.

Quorum

11A. The presence of at least three members excluding the Chairman shall constitute the quorum of the Council.

Vacancies etc. not to invalidate Act of the Council

12. No act or proceeding of the Council shall be deemed to be invalid by reason of the fact that there was any vacancy in or any defect in the constitution of the Council.

Administrative procedure of the Council

13. (1) The work of the Council shall be led by the Chairman.

(2) The Chairman shall ensure that a petition is served on the other party.

(3) The Chairman may obtain necessary information in any manner he deems appropriate to ensure that a case is properly elucidated.

(4) The Council shall consider a case, as far as possible, on the basis of the written representation submitted by the parties and other available written material.

(5) The Council may, to the extent considered reasonable, obtain expert opinion and summon experts to make oral statements to the Council.

(6) The Council shall have secretarial or any other assistance as considered necessary, from the Administration.

(7) The parties to the dispute shall be kept informed of the progress of a case and such statements and documentation as may be submitted by the other party. The expert opinions shall be notified.

(8) The Council shall ensure that a case is decided without unnecessary delay.

Dismissal of dispute

14. (1) Any dispute brought before the Council shall be dismissed if it does not fall within the Council's sphere of competence under section 9.

(2) The Council shall also dismiss a dispute which has previously been decided by a Court judgement or a dispute that is being dealt with by a court of law unless the court resolves to drop proceedings in the case as provided in sub-section (2) of section 18.

(3) A decision regarding dismissal under this section shall be made with final effect and the Chairman shall ensure that the decision is officially communicated to the parties.

Failure to participate by the parties

15. (1) Before a case is taken up for decision by the Council, the parties shall be given an opportunity to reply, for which a time limit may be set by the Council.

(2) If a party does not reply by the date on which the time limit expires, the Council may render a decision, in a case, on the basis of information that has emerged previously and facts supplied in the petition by the consumer and in the reply given by the seller.

(3) A decision under sub-section (2) may be made only after the party concerned has been served with a notice of the consequences of failure to reply.

Decision and related matters

16. (1) Where the Council comes to a final decision that the quality of any article or goods is not according to the standards represented by the seller and/or manufacturer or as claimed by the purchaser, it shall direct the seller/manufacturer, as the case may be to make good the same to the consumer. In the event of default the amount due to the consumer on that account shall be recoverable as arrears of land revenue. The amount so recovered shall be paid by the Council to the consumer and the sub-standard article/goods in the above event shall stand confiscated to the Council.

(2) The final decision in a case shall be reached at a formal meeting by simple majority and the grounds for it shall be given in writing.

(3) It shall be stated in the decision whether it is unanimous and

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in case it is not unanimous, the names of members who disagree with the decision, the grounds for it and the grounds for the minority standpoint shall be given in the decision.

(4) The Chairman shall ensure that the decision is officially communicated to the parties concerned.

(5) The decision of the Council shall be final and no appeal shall lie before any court.

Provided that an aggrieved person can make an appeal for revision/ review on specific grounds to a committee consisting of the following members:

- i) Commissioner, Food & Supplies, Delhi Admn., Delhi.
- ii) Director, Prevention of Food Adulteration, Delhi.
- iii) Chairman-cum-Managing Director, Delhi State Civil Supplies Corporation, Delhi.
- iv) Registrar, Cooperative Societies or their nominated officer not below the rank of Deputy Secretary, Delhi.

(6) A decision of the Council shall have the same effect as a judgement which is *res judicata* and may be enforced in accordance with the rules applicable to court judgements.

(7) The Council shall always possess a transcript of the decision.

(8) If the case had previously been brought before the court, but proceedings were dropped under sub-section (2) of section 18 the decision shall also be transmitted to the court concerned.

Relationship to arbitration clauses

17. An agreement to the effect that a dispute covered by this Act shall be settled by arbitration shall not prevent it from being brought before the Council.

Relationship to ordinary court of law

18. (1) If a dispute is brought before the Council it shall not be brought before a court by the same parties.

(2) If a dispute is brought before a court and one of the parties desires that the dispute should be settled by the Council, and if the other party agrees, the court concerned shall not proceed further with the case which shall be deemed to have been closed.

Costs of the case

19. (1) If either party has made assertions before the Council, or by other means made claims that the Council considers clearly indefen-

sible, it may decide that the party in question shall, in whole or in part, bear the costs incurred by the other party.

Meetings to be held in camera

20. (1) The meetings of the Council shall be held in camera.

(2) The documents submitted to the Council shall not be made public until the date on which a final decision in the case is rendered by the Council.

CHAPTER IV

RECORD AND REPORT OF ACTIVITIES

Record of meetings held

21. (1) A record shall be kept of the proceedings of the Council which shall be signed by the Members.

(2) The record shall state the time and place of a meeting, the composition of the committee, the cases dealt with and the subjects to which they relate, the documents submitted, whether experts have testified orally, and in addition the decision of the Council and the grounds for the decision.

Annual Report

22. (1) The Council shall prepare once yearly an annual report giving a summary of its activities in the previous year and giving an account of the cases decided together with an audited statement of accounts.

(2) The annual report shall be forwarded to Administrator and the Administrator shall cause the same to be laid before the Delhi Metropolitan Council.

Interim Report

23. Without prejudice to the provisions of Section 22, the Council may prepare at any time during the course of a year, a report giving a summary of such of its activities during the year as it considers to be of importance to consumers and copies thereof shall be forwarded to the Administrator, and the Administrator shall cause the same to be laid before the Delhi Metropolitan Council.

CHAPTER V

MATTERS RELATING TO FINANCES

Levy of fees

24. A fee of rupees five shall be paid by every consumer while submitting his petition for consideration by the Council.

Fund of the Council

25. (1) The Council shall have its own fund.

(2) The fees collected by the Council, all such sums as may, from time to time, be paid to it by the Delhi Administration and all grants and advances made to it by any other authority or organisation or person, shall be credited to the Fund and all payments by the Council shall be made therefrom.

(3) All moneys belonging to the Fund shall be deposited in any nationalised bank.

(4) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Council.

Budget

26. The Council shall prepare a budget each year in respect of the next financial year ensuing, showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Administrator.

Supersession

27. (1) If in the opinion of the Administrator, the Council makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or commits any act which is prejudicial to public interest, the Administrator may, by giving the Council an opportunity to state objections, if any, by order in writing, supersede the Council, and

(a) appoint another Council, or

(b) appoint one or more officers to manage affairs of the Council for a period not exceeding one year which period may at the discretion of the Administrator, so, however, that the aggregate period shall not exceed three years.

(2) The Administrator may fix any remuneration of the officer or officers so appointed as he may think fit. Such remuneration shall be paid out of the funds of the Council.

(3) The officer or officers so appointed shall have all the powers and shall be competent to discharge all the functions of the Council until such time the Council is reconstituted.

Power to exempt

28. Notwithstanding anything contained in this Act, the Administrator may, by general or special order, and subject to such condition, if any, as he may impose, exempt any category or class of consumer, or seller or manufacturer from all or any of the provisions of this Act.

Power to delegate powers of Administrator

29. The Administrator may by general or special order delegate all or any of his powers conferred on him by this Act to any officer subordinate to him.

Power to issue directions

30. The Administrator may, from time to time, issue such directions as he may consider necessary with a view to secure compliance of the provisions of this Act.

CHAPTER VI

MISCELLANEOUS

Members, etc. to be public servants

31. Every member of the Council and every officer or other employee appointed by the Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith

32. (1) No suit or other legal proceeding shall lie against the Council, or any member thereof, or any officer or person acting under the direction of the Council in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made under.

(2) No suit or other legal proceeding shall lie against any newspaper in respect of the publication of any matter therein under the authority of the Council.

Act to override

33. The provisions of this Act shall have effect notwithstanding

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anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

Power to make rules

34. (1) The Administrator, after consultation with the Council, may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act;

(2) Every rule made under this section 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 the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree to modify 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 be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

Powers to make regulations

35. The Council with the previous approval of the Administrator, may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder for carrying out the purpose of this Act and without prejudice the generality of this power, such regulations may provide for:

- (i) regulating the meetings of the Council and also for meetings of the Council constituted to deal with individual purchase disputes brought before it by consumers.
- (ii) specify in the terms and conditions of service of the employees appointed by the Council under section 7.
- (iii) delegating to the Chairman or the Secretary of the Council, subject to such conditions, as it may think fit to impose, any of its powers under sub-section (3) of section 25.
- (iv) any other matter for the working of the Council.

Provided that such regulations shall be made only with prior approval of the Delhi Administration.

Power to remove difficulties

36. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may, by order, do anything, not

inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under this section shall be made after the expiration of two years from the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

With rapid all-round industrialisation, the production of consumer durables of every variety is fast increasing. Their sales are going up equally.

Although manufacturers are expected to maintain high standards of production and enforce strict quality control over the commodities, yet not all of them, fulfil their basic business obligations.

Tall claims about the superior quality of products on the one hand and often relatively poor standard of many of them on the other, result consumer dissatisfaction.

Generally, consumers are at a disadvantage when seeking relief from either the local dealer or distributor, or even from the manufacturer, whose production unit is located away from the buyer.

Moreover, it is almost impossible for an individual consumer to go to a court of law to get a dispute with a supplier satisfactorily settled. Litigation is not only intricate and time consuming but also expensive.

Considering all these inescapable factors, it is proposed to constitute a statutory Council in Delhi which will deal with consumer-purchase disputes.

As the Council will provide an adequately powered forum to consumers to get relief in case of a purchase complaint it will act as deterrent to local dealers, distributors and manufacturers not to take their customers for granted.

Hence this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Clause 32 empowers the Consumer (Purchase) Disputes Council to make regulations not inconsistent with the provisions of the Bill and the rules that may be made thereunder.

The matters in respect of which rules or regulations may be made pertain to procedure or administrative detail and as such the delegation of legislative power is of a normal character.