

THE CONSUMER PROTECTION BILL, 1986

A BILL to provide for the establishment of a Consumer Protection Council for protecting and promoting consumers' interests and a Forum for settlement of consumer disputes with a view to providing speedy and inexpensive redressal of grievances in relation to defective commodities and for matters connected therewith and incidental thereto.

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. (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 State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act.

Definitions

2. (1) In this Act, unless the context otherwise requires;
 - (a) "appropriate laboratory" means a laboratory or organisation recognised by the Council and includes 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 State Government, for carrying on analysis or test of any commodity with a view to determining whether such commodity suffers from any defect;
 - (b) "Chairman" means the Chairman of the Council;
 - (c) "commodity" includes goods but does not include any services or handicraft;
 - (d) "complainant" means a consumer or an organisation representing consumers, who or which makes a complaint to the Forum;
 - (e) "complaint" means any allegation made to the Forum to the effect that the commodity specified therein suffers from one or more defects with a view to its taking action under this Act

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for the removal of such defects by a trader or a manufacturer, and for the award of compensation for the sale or delivery of any such defective commodity;

- (f) “consumer” means a person who buys or pays for any commodity for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment but does not include a person who obtains such commodity for re-sale or for any other commercial use.
- (g) “consumer complaint” means a complaint made by a consumer;
- (h) “consumer dispute” means a dispute which arises when a trader disputes the correctness of the consumer complaint;
- (i) “consumption” in relation to any commodity means the use or utilisation of such commodity directly by the consumer or within a reasonable time after obtaining the same;
- (j) “Council” means the Consumer Protection Council established under section 4;
- (k) “defect”, in relation to a commodity, means any fault, imperfection or shortcoming in relation to the quality, quantity, potency, purity or standard of such commodity and includes any such blemish in such commodity;
- (l) “defective” in relation to a commodity means a commodity which suffers from any defect;
- (m) “Director” means the Director of Consumer Protection appointed under section 10;
- (n) “Forum” means the Consumer’s Disputes Redressal Forum established under section 15;
- (o) “member” means a member of the Council and includes the Chairman;
- (p) “manufacturer” in relation to a commodity means a person who, —
 - (i) makes or manufactures such commodity;
 - (ii) makes or manufactures a machinery or any part thereof or acquires one or more parts of such machinery, assembles them and after so assembling claims the end product to be a machinery manufactured by himself; or
 - (iii) does not make or manufacture any part of any machinery, but assembles parts thereof made or manufactured by others and claims the end product to be a machinery manufactured by himself; or

- (iv) puts or causes to be put his own mark on any machinery made or manufactured by any other manufacturer and claims such machinery to be a machinery made or manufactured by himself.

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

- (q) "notification" means a notification published in the Official Gazette;
- (r) "person" includes:
 - (i) a firm, whether registered or not;
 - (ii) a Hindu undivided family;
 - (iii) a cooperative society;
 - (iv) every other society whether registered under the Societies Registration Act, 1860 or not;
- (s) "prescribed" means prescribed by rules made under this Act;
- (t) "President" means the President of the Forum;
- (u) "State Government" in relation to a Union Territory, means the Administrator thereof;
- (v) "trader", in relation to a commodity means a person who sells or distributes any commodity for sale and includes the manufacturer thereof and where such commodity is sold or distributed in packaged form, includes the packer thereof.

Act to override other laws

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any other law other than this Act or any judgement, decree, order or award of any court, tribunal or authority.

CHAPTER II

CONSUMER PROTECTION COUNCIL

Establishment of the Council

- 4. (1) The State Government may, by notification in the Official

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Gazette, establish with effect from such date as it may think fit a Council to be known as the Consumer Protection Council.

(2) The Council shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

Composition of the Council

5. (1) The Council shall consist of the following persons namely:

- (a) the Minister in charge of Food and Civil Supplies in the state who shall be its Chairman;**
- (b) the Secretary in charge of the Department for the implementation of the Prevention of Food Adulteration Act, 1954 in the State;**
- (c) the Secretary in charge of the Department of Health in the State;**
- (d) the Secretary in charge of the Department responsible for laws relating to weights and measures in the State;**
- (e) the Secretary in charge of the Department of Industries in the State;**
- (f) four persons nominated by the State Government to represent voluntary consumer organisations;**
- (g) two persons nominated by the State Government from amongst persons having knowledge and experience in the fields of manufacturing or wholesaling or retailing or distribution or advertising of commodities;**
- (h) one person nominated by the State Government to represent trade and industry;**
- (i) two persons nominated by the State Government to represent women's organisations;**
- (j) one person to be nominated by the State Government to represent the Scheduled Castes and Scheduled Tribes;**
- (k) the Director of Consumer Protection appointed under section 7, who shall be the Member Secretary of the Council.**

(2) Every member of the Council who is nominated shall hold office for a term of three years and on the expiry of the said term, shall be eligible for re-nomination;

Provided that a member may resign his office by writing under his hand addressed to the Chairman, and on such resignation being accepted, his office shall become vacant and may be filled up by nomination of another person possessing the qualifications specified in sub-section (1)

in relation to the relevant category;

(3) Where the Chairman is not in position or is unable to discharge his functions owing to illness or any other cause, the Secretary in charge of the Department for the implementation of the Prevention of Food Adulteration Act, 1974 shall, in addition to his other duties discharge the functions of the Chairman until the Chairman assumes charge.

(4) No proceedings of the Council shall be invalid merely by reason of the existence of any vacancy in, or any defect in the constitution of the Council.

(5) The nominated members of the Council shall receive such allowances as may be prescribed.

Constitution of Working Groups

6. For the purpose of performing its functions under this Act, the Council may constitute from amongst its members such working groups as it may deem necessary and every working group so constituted shall perform such functions as are assigned to it by the Council.

Staff of the Council

7. The State Government may provide such staff to the Council as it deems fit and, may provide for such conditions of service of the members of such staff as may be prescribed provided that such conditions of service shall not be varied to the disadvantage of any member of such staff, after his appointment.

Procedure for meetings of Council

8. (1) The Council shall meet as and when necessary but not more than six months shall elapse between any two meetings of the Council.

(2) The 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.

Objects and functions of the Council

9. (1) The objects of the Council shall be to promote and protect the rights of the consumer such as:

- (a) the right to safety, that is, to be protected against the marketing of consumer goods which are hazardous to life and property;
- (b) the right to be informed about the quality, quantity and price of goods so as to protect the consumer against unfair trade practices;

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- (c) the right to choose, that is, to be assured wherever possible, access to variety of consumer goods at competitive prices;
- (d) the right to be heard and to be assured that consumers' interests will receive consideration in all quarters;
- (e) the right to seek redressal against unscrupulous exploitation by manufacturers, wholesalers, retailers and distributors of consumer goods;
- (f) the right to consumer education.

(2) The Council may, in furtherance of its objects, perform the following functions namely:

- (a) undertake programmes for planned and sustained education of the consumer public and disseminate information to encourage the consumer to become aware of and responsive to his rights and obligations;
- (b) collect and disseminate information relating to matters affecting the interest of the consumers, particularly information as to prices, quality and availability of consumer goods;
- (c) undertake studies and carry out research into various problems relating to consumer welfare;
- (d) arrange testing of goods as to their quality to be performed by laboratories;
- (e) grant recognition to laboratories for the purposes of the Act;
- (f) publish the results of tests for the information of the consumer public;
- (g) carry out verification wherever deemed fit of claims of traders as to the quality and contents of commodities sold and distributed in the market;
- (h) carry out investigations in relation to matters concerning manufacturing, wholesaling, retailing, distribution or advertising of commodities in so far as these matters affect the interest of consumers;
- (i) undertake steps for promoting self-discipline in trade and industry with a view to ensuring fair deal to the consumer; and
- (j) publish regularly, journals, reports and other material containing information which is of interest to the consumer including directions given by the Forum.

CHAPTER III

DIRECTORATE OF CONSUMER PROTECTION

Establishment of Directorate of Consumer Protection

10. (1) The State Government shall establish a Directorate to be known as the Directorate of Consumer Protection for the State of which shall function as the executive arm of the Council.

(2) The State Government shall appoint a Director of Consumer Protection who shall be the executive head of the Directorate of Consumer Protection and such other officers and staff as may be necessary for the efficient performance of the functions of the Directorate under this Act.

(3) The Director and every officer authorised to perform any duty by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Functions of the Directorate

11. The Directorate of Consumer Protection shall perform the following functions namely:

- (a) receive consumer complaints with respect to defective commodities or unfair trade practices for submission before the Forum.
- (b) act as a watchdog in matters relating to the effective implementation of the various laws designed to protect the interest of the consumer and submit periodical reports to the Council, collaborate with the concerned Department of the Central and State Governments in collecting and disseminating information relating to the interests of the consumer; and
- (c) undertake such functions as the Council and the Forum may, from time to time, entrust to it in furtherance of the provisions of this Act.

General Powers of the Director

12. The Director, or any other officer authorised by the Council to exercise the powers to discharge the functions of the Director may, if he has reason to believe, whether on information received by it from a consumer or otherwise that a trader, wholesaler, retailer or distributor of consumer goods is indulging in unfair trade practices:

- (a) require such a trader, wholesaler, retailer or distributor to

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produce books, accounts or other relevant documents for examination which may be considered necessary;

- (b) enter at any reasonable time, the premises of any trader, wholesaler, retailer or distributor who in his opinion is indulging in unfair trade practices and inspect any goods or relevant documents for evaluating the quality of the goods involved.

CHAPTER IV

ESTABLISHMENT AND JURISDICTION OF CONSUMER DISPUTES REDRESSAL FORUM

Establishment of Consumer Disputes Redressal Forum

13. The State Government may, by notification, establish, with effect from such date as it thinks fit, a Forum known as the Consumers Disputes Redressal Forum for dealing with consumer disputes.

Composition of the Forum

14. (1) The Forum shall consist of:
- (a) a person, who is, or has been qualified to be a judge of a High Court, who shall be its President; and
 - (b) a person of eminence in the field of education, economics or social welfare or a person who has served in the State Government not below the rank of a Joint Secretary to Government;
 - (c) a lady social worker of eminence preferably with specialised knowledge or experience in consumer affairs.

(2) Every member of the 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 reappointment;

Provided that a member may resign his office by 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 similar qualifications.

Jurisdiction of the Forum

15. The Forum shall have jurisdiction to settle all consumer disputes, other than those in relation to which the Commission established under section 54 of the Monopolies and Restrictive Trade Practices Act, 1969 has jurisdiction.

Manner in which the consumer complaints shall be made

16. (1) Any consumer may make a complaint in such form and on payment of such fees (not exceeding rupees ten) as may be prescribed with regard to any defect in a commodity sold or delivered to him by any trader.

(2) Any voluntary organisation representing consumers, may make a complaint in such form and on payment of such fees (not exceeding rupees fifty) and in accordance with such procedure as may be prescribed, to the Forum on behalf of all or any of its members in regard to any defect in any commodity sold or delivered to any member of such organisation by any trader.

Procedure for settlement of disputes

17. (1) The Forum shall, on receipt of a consumer complaint, send a copy of such complaint to the trader concerned to give his version of the case within such period as may be specified in the reference.

(2) Where any trader on receipt of a copy of the complaint sent to him under sub-section (1) omits or fails to take any action to represent his case within the time given by the Forum or on such extended time as may be given by it, the Forum shall proceed to settle the dispute in the manner specified in sub-section (3) to (10).

(3) Where a defect pointed out in the consumer complaint is such that it cannot be determined without proper analysis or test of the concerned commodity, the Forum shall obtain a sample of the concerned commodity from the consumer, seal it and authenticate it in the manner prescribed and forward the sample so sealed to the appropriate laboratory along with a notice requesting such laboratory to make an analysis or test whichever may be necessary with a view to finding out whether such a commodity suffers from any defect alleged in the consumer complaint or whether the said commodity suffers from any other defect and to report its findings thereon to the Forum within the time specified in the reference.

(4) Where any commodity is forwarded to any laboratory for analysis or test under sub-section (3), the Forum may require the applicant to deposit to the credit of the Forum such fees as may be specified for payment to the appropriate laboratory for carrying out necessary analysis or test in relation to the concerned commodity.

(5) The Forum shall remit the amount deposited to its credit under sub-section (4) to the appropriate laboratory to enable it to carry out the analysis or test referred to in sub-section (3). On receipt of the report from the appropriate laboratory, the Forum shall forward a copy of the

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report along with such remarks as the Forum may feel appropriate to the trader.

(6) If the complainant or the trader, as the case may be, disputes the correctness of the findings of the appropriate laboratory or disputes the correctness of the methods or analysis adopted by the appropriate laboratory, the Forum shall require the complainant or the trader, as the case may be, to specify in writing their objections with regard to the report made by the appropriate laboratory.

(7) The Forum shall thereafter give a reasonable opportunity to the complainant as well as the trader of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the correctness or otherwise of the objections made in relation thereto under sub-section (6).

(8) For purpose of conducting the proceedings under this section, the Forum shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters namely:

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisitioning of the record of the concerned analysis or test from the appropriate laboratory; and
- (e) issuing of any commission for the examination of any witness.

(9) If, after the proceeding conducted under sub-sections (7) and (8), the Forum is satisfied that the concerned commodity suffers from any defect, it shall send a communication to the trader directing:

- (a) removal of the defect pointed out by the appropriate laboratory from all the products of the concerned commodity manufactured on or after such date as may be specified in such communication, or where it is satisfied from the report of the appropriate laboratory that the defect in the concerned commodity is not capable of being removed and that the continued manufacture of the defective commodity would be prejudicial to the public interest as hazardous to public health, suggest to the trader discontinuance forthwith of the manufacture or production of the commodity;
- (b) payment to the complainant as damages, such amount, not

- exceeding twenty times the value of the concerned commodity as may be specified in the communication; or
- (c) payment to the complainant an amount equal to the amount of fee deposited by him under sub-section (3).
- (10) In the event of omission or failure of the concerned trader:
- (a) to discontinue production of the defective commodity within the time suggested by the Forum; or
- (b) to make payment to the complainant of any amount specified in the communication made by the Forum under sub-section (9) within the time specified thereunder;

the Forum shall cause to be published in the Official Gazette or through any other media, the full text or any portion of the directions given by the Forum under sub-section (9).

(11) Where a consumer complaint is found by the Forum to be frivolous or vexatious, it shall dismiss the complaint (with or without refunding the fee) and, on such dismissal, no consumer complaint of the nature dismissed by the Forum shall thereafter be entertained by it.

CHAPTER IV

MISCELLANEOUS

Council Funds

19. (1) All fees received by the Forum and all such sums as may be, from time to time, paid to the Council by the State Government and all grants and advances made to it by any other authority or person shall be credited to a fund, to be called the Council Fund, and all payments made by the Council shall be made out of such Fund.

(2) The monies standing to the credit of the Council Fund shall be kept deposited in any branch of a nationalised bank.

Explanation: The expression "nationalised bank" shall have the meaning assigned to it in the Monopolies and Restrictive Trade Practices Act, 1969.

(3) The Council may spend out of the Council Fund such amounts as it may think fit for the performance of its functions and that of the Forum under this Act and such sums shall be treated as an expenditure payable out of the Council Fund.

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Budget of the Council

20. The Council shall, before the expiry of every financial year, prepare a budget for the next financial year, showing therein the estimated receipts and expenditure and the copies thereof shall be forwarded to the State Government.

Audit of the accounts of the Council

21. (1) The accounts of the Council shall be audited by auditors duly qualified to act as auditors under sub-section (1) of the section 226 of the Companies Act, 1956, who shall be appointed by the State Government on such term and on such remuneration as it may think fit.

(2) The auditor shall be supplied with a copy of the annual accounts of the Council and it shall be his duty to examine it together with accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Council and shall, at all reasonable times, have access to the books, accounts, vouchers and other documents of the Council.

(3) The auditor may, in relation to such accounts, examine any member or officer or other employee of the Council and shall be entitled to obtain from the Council or officers or other employees of the Council such information and explanation as he may think necessary for the performance of his duties.

(4) The auditor shall make a report to the Council upon the annual accounts examined by him in every such report, he shall state whether in his opinion the accounts are true and fair accounts containing all necessary particulars and fair picture of the state of affairs of the accounts of the Council and, in case, he had called for any explanation or information from the Council, whether it was given and whether it was satisfactory.

(5) The Council shall furnish to the State Government within four months from the date on which its accounts are closed, a copy of its annual account together with a copy of the auditor's report and a report of the working of the Council during the relevant year.

Members etc. to be public servants

22. Every member of the Council and every officer or other employee appointed by the Council and every member of the Forum shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Protection of action taken in good faith

23. (1) No suit, prosecution or other legal proceeding shall lie,

against the Council, Director or Forum or any member thereof, or any officer or person, acting under the direction of the Council, Director or Forum for executing any order made by them in respect of anything which is in good faith done or intended to be done by him under this Act or under any rule or order made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against any newspaper in respect of the publication of any matter, where the publication of such matter has been made under the authority of the Forum.

Power to exempt

24. Notwithstanding anything contained in this Act, the State Government may, where he is satisfied that circumstances exist requiring him so to do, by general or special order, made with the previous approval of the State Government, exempt, subject to such conditions, if any, as it may impose, any category or class of commodities, or any category or class of traders from all or any of the provisions of this Act.

Power to delegate

25. The State Government may, by general or special order, delegate all or any of the powers conferred on it by or under this Act, except the powers conferred on him by section 4 and section 19, to any officer subordinate to it.

Power to issue directions

26. The State Government may, from time to time, issue such directions as it may consider necessary for securing compliance of the provisions of this Act.

Power to make rules

27. (1) The State Government may, after consultation with the Council, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) Travelling and other allowances, which may be paid to the members of the Council or Forum for attending meetings thereof as required by sub-section (4) of section 6;