

CHAPTER 9 CONSUMER PROTECTION ACT, 1986

➤ INTRODUCTION

- The Consumer Protection Act, implemented in 1986, gives easy and fast compensation to consumer grievances.
- It safeguards and encourages consumers to speak against insufficiency and flaws in goods and services.
- If traders and manufacturers practice any illegal trade, this act protects their rights as a consumer.
- The primary motivation of this forum is to bestow aid to both the parties and eliminate lengthy lawsuits.
- This Protection Act covers all goods and services of all public, private, or cooperative sectors, except those exempted by the central government.
- The act provides a platform for a consumer where they can file their complaint, and the forum takes action against the concerned supplier and compensation is granted to the consumer for the hassle he/she has encountered.

➤ SOME IMPORTANT DEFINITIONS [SECTION 2]

- **Complaint** - Any allegation in writing made by a complainant with a view to obtaining any relief provided by or under this Act.

Nature of complaint

- (i) An unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider
- (ii) The goods bought by complainant suffer from one or more defects;
- (iii) The services hired or availed of suffer from deficiency in any respect;
- (iv) A trader or the service provider, has charged for the goods or for the services a price in excess of the price
 - (a) Fixed by or under any law for the time being in force; (**Ex** – telephone rates fixed by TRAI)
 - (b) Displayed on the goods or any package containing such goods;
 - (c) Displayed on the price list exhibited by him by (**Ex** – Petrol, Diesel prices by Petrol pumps);
 - (d) Agreed between the parties (contracted price) ;
- (v) Goods or services which will be hazardous to life and safety are being offered for sale to the public,

- **Consumer** - any person who

- (i) Buys any goods for a consideration, or
- (ii) Hires or avails of any services for a consideration;

Note: It must be noted that a person who buys goods or avails services for commercial purposes is not a consumer. However, where a person buys goods or avails services exclusively for the purposes of earning his livelihood by means of self-employment is a consumer.

➤ **Importance of Consumer Protection**

• **(From Consumer's point of view)**

1. Consumers Ignorance: Majority of consumers are not aware of their rights and reliefs available to them as a result of which they are exploited. In order to save consumers from exploitation, consumer protection is needed.

2. Unorganized Consumers: In India consumers are still unorganized and there is lack of consumer organizations also, thus consumer protection is required.

3. Widespread Exploitation of Consumers: Consumers are exploited on large scale by means of various unfair trade practices and consumer protection is required to protect them from exploitation.

• **From the point of Business**

1. Long term Business Interest: It is always in the interest of the business to keep its customer satisfied. Global competition could be won only after satisfying customers. Satisfied customers lead to repeat sales and help in increasing customer base of business.

2. Moral Justification: It is the moral duty of any business to take care of consumer interest & avoid any form of their exploitation & unfair trade practices like defective & unsafe products, adulteration, false and misleading advertising, hoardings, black marketing etc.

3. Business uses Resources of Society: Every business uses the resources of the society and thus it is their responsibility to work in the interest of the society.

4. Social Responsibility: A business has social responsibilities towards various groups like owners, workers, government, customers etc. Thus, customers should be provided qualitative goods at reasonable prices.

5. Government Intervention: If a business engages in any form of unfair trade practices then government takes action against it, which adversely affects its goodwill.

➤ **Consumer Rights and Responsibilities:**

The Rights of the Consumer

- **Right to Safety-** Before buying, a consumer can insist on the quality and guarantee of the goods. They should ideally purchase a certified product like ISI or AGMARK.
- **Right to Choose-** Consumer should have the right to choose from a variety of goods and in a competitive price.
- **Right to be informed-** The buyers should be informed with all the necessary details of the product, make her/him act wise, and change the buying decision.
- **Right to Consumer Education-** Consumer should be aware of his/her rights and avoid exploitation. Ignorance can cost them more.
- **Right to be heard-** This means the consumer will get due attention to express their grievances at a suitable forum.
- **Right to seek compensation-** This defines that the consumer has the right to seek redress against unfair and inhumane practices or exploitation of the consumer.

The Responsibilities of the Consumer

- **Responsibility to be aware** – A consumer has to be mindful of the safety and quality of products and services before purchasing.
- **Responsibility to think independently**– Consumer should be well concerned about what they want and need and therefore make independent choices.
- **Responsibility to speak out**- Buyer should be fearless to speak out their grievances and tell traders what they exactly want
- **Responsibility to complain**- It is the consumer's responsibility to express and file a complaint about their dissatisfaction with goods or services in a sincere and fair manner.
- **Responsibility to be an Ethical Consumer**- They should be fair and not engage themselves with any deceptive practice.

➤ **THE SALIENT FEATURES AND PROVISIONS OF CONSUMER PROTECTION ACT, 1986**

• **Who Can File a Complaint Under CPA, 1986**

A complaint before the appropriate consumer forum can be made by:

1. Any consumer.
2. Any registered consumer association.
3. The central or state government.
4. One or more consumers on behalf of numerous consumers having same interest.
5. A legal heir or representative of a deceased consumer.

• **Complaints can be filed and compensation claimed w.r.t:**

- 1) Fraudulent practices by traders and manufacturers
- 2) Defective goods
- 3) Deficiency in services in connection with 9 services such as banking, transportation, insurance, supply of electricity and gas, house construction, medical service

➤ **REDRESSAL AGENCIES UNDER CONSUMER PROTECT ACT, 1986**

For the redressal of consumer grievances the act provides three-tier machinery as:

1. DISTRICT FORUM

District forum are set up in each district by the state concerned. The important features are:

- (a) It consists of a President and two members, one of whom should be a woman, duly appointed by State Govt.
- (b) It can receive consumer complaints of not more than Rs. 25 lakhs value.
- (c) On receiving the complaint, the district forum shall refer the complaint to the opposite party concerned and send the sample of goods for testing in a laboratory.
- (d) The district forum after being satisfied that goods are defective or there is some unfair trade practice can issue an order to opposite party directing him to either replace or return the price or pay compensation. In case the aggrieved party is not satisfied with the order of district forum. He can appeal before state forum within 30 days of passing an order.

2. STATE COMMISSION

It is set up in each state by the govt. concerned. The salient features are:

- (a) Each commission consists of a president and it least 2 members appointed by state Govt.
- (b) Complaints of at least Rs. 25 lakhs but not more than 1 crore can be filed with state commission.
- (c) On receiving the complaint, the state commission can also refer the complaint to opposite party and send the goods for testing in laboratory.
- (d) The state commission after being satisfied can order to opposite party to either replace or repay or pay compensation. In case the aggrieved party is not satisfied, they can appeal before national commission within 30 days of passing an order.

3. NATIONAL COMMISSION

It is setup by Central Govt. The provisions of act are:

- (a) It consists of a President and at least 4 members appointed by Central Govt.
- (b) All complaints are pertaining to goods and services of value more than Rs. 1 crore can be filed with national commission.
- (c) On receiving the complaint, the national commission can also refer it to opposite party and send goods for testing.
- (d) The National Commission has the power to issue orders for replace mentor removal and to pay the compensation for loss.

➤ **REMEDIES AVAILABLE TO CONSUMERS**

- Remove defect in goods and deficiency in services.
- Replace defective goods with one with no defects
- Refund price paid
- Pay a reasonable amount of compensation for any loss or injury suffered.
- Pay punitive damages in appropriate circumstances.
- Discontinue unfair/restrictive trade practice
- Not to offer hazardous goods and services for sale
- Withdraw hazardous goods from sale
- Cease manufacturing hazardous goods
- Pay an amount to consumer welfare fund/ person (not less than 5%) to be utilized in the prescribed manner
- Issue corrective advertisement to neutralize the effect of misleading ads.
- Pay adequate costs to parties.

➤ **CONSUMER AWARENESS**

Some important consumer organization and NGO's engaged in protecting consumer interests are:

1. Consumer coordination council, Delhi.
2. Voluntary organization in Interest of Consumer Education, Delhi.
3. Mumbai Grahak Panchayat, Mumbai.
4. Consumer Association, Kolkata.
5. Consumer Unity and Trust Society Jaipur.

➤ **Role of Consumer organizations and NGO's**

1. Educating the general public about consumer rights by organizing training programmes, seminars and workshops.
2. Publishing periodical & other publications to educate consumers.
3. Providing legal assistance to consumers by providing legal advice etc.
4. Producing films or cassettes on food adulteration, misuse of drugs etc.
5. Filing complaints in appropriate consumer courts on behalf of consumers.
6. Encouraging consumers to take on action against unfair trade practices.
7. Taking an initiative in filing cases in consumer courts on behalf of consumers.

➤ **Ways and Means of Consumer Protection**

1. Self Regulation by Business:

- It is in the long-term interest of businesses to serve the customers well.
- Socially responsible firms follow ethical standards and practices in dealing with their customers.
- Many firms have set up their customer service and grievance cells to redress the problems and grievances of their consumers.

2. Business Associations:

- Examples of associations of trade, commerce and business – Federation of Indian Chambers of Commerce of India (FICCI) and Confederation of Indian Industries (CII)
- They have laid down their code of conduct which lay down for their members the guidelines in their dealings with the customers.

3. Consumer Awareness:

- A consumer, who is well informed about his rights and the reliefs available to him, would be in a position to raise his voice against any unfair trade practices or unscrupulous exploitation.
- This enables them to understand their responsibilities and to safeguard their interests.

4. Consumer Organizations':

- Force business firms to avoid malpractices and exploitation of consumers.

5. Government:

- The most important of these regulations is the Consumer Protection Act, 1986. The Act provides for three-tier machinery at the district, state and national levels for redressal of consumer grievances.

CONSUMER PROTECTION COUNCILS

The objects of the Councils shall be to promote and protect the rights of the consumers including the right to consumer education.

Classification of Council	Central Consumer Protection Council [SECTION 4]	State Consumer Protection Council [SECTION 7]	District Council [SECTION 8A]
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Estab. Authority	Central Government	State Government	State Govt.
Composition	Minister in charge in the Cent. Govt.	Minister in charge in the State Govt.	Collector of the district
Chairman	(i) 8 M.P.—5 from LS, 3 from RS.	(i) 8 – 5 MLA & 3MLC	(As per respective State Rules)
Other official or non-official members.	(ii) Secy.-National Comm. for SC & ST.	(ii) 10 – State Govt. Repr.	Generally 3 years
Term	(iii) 20 – Repr. Of Cent. Govt.& Autonomous Org. with consumer interests	(iii) 5 – Women Repr.	District HQ
Place of Council	(iv) Registrar, National Consumer Disputes Redressal Commission	(iv) 5 – Trade & Farmers Repr.	At least two meetings in a year.
Meetings	(v) 35 - Consumer Orgns.	(v) 1 – Persons for Consumer Interest.	
	(vi) 10 – Women	Generally 3 years	
	(vii) 20 – Trade & Industry	State capital	
	(viii) 15 – Persons for Consumer Interest	At least two meetings in a year	
	Member-secretary - Secretary in-charge of Consumer Affairs in the Central Government.		
	3 years		
	Delhi		
	At least one meeting every year		

CONSUMER DISPUTES REDRESSAL AGENCIES

Appellate Authority	National Consumer Disputes Redressal	State Commission	District Forum
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	Commission [SECTION 20]	[SECTION 16]	[SECTION 10]
Composition	Judge of the Supreme Court to be appointed by the Cent. Govt. in consultation with the Chief Justice of India.	Judge of the High Court to be appointed by State Govt. in consultation with Chief Justice of High Court.	District Judge to be appointed by the State Govt. in consultation with the Chief Justice of State High Court. who shall be its President;
President			
Members (persons of ability, integrity and standing and have adequate knowledge or experience)	4 (1 Woman) – Appointed by Cent. Govt. on the recommendation of a selection committee.	2 (1 Woman) – Appointed by State Govt. on the recommendation of a selection committee	2 (1 Woman) – Appointed by State Govt. on the recommendation of a selection committee
Term	5 years` or 70 years` (whichever earlier)	5 years or 67 years (whichever earlier).	5 years or 65 years (whichever earlier).
Jurisdiction			
Penalty	(i) Complaints - value of the goods or services and compensation, if any, claimed exceeds Rs. One crore and	Complaints - value of the goods or services and compensation, if any, claimed exceeds Rs. 25 lakhs upto Rs. One Crore.	Complaints - value of the goods or services and compensation, if any, claimed upto Rs. 25 lakhs. The concerned State within which either of parties actually and voluntarily resides or carries on business or has a branch office or personally works for gain.
Time limit for completion of hearing	(ii) Appeals against the orders of any State Commission.	Imprisonment up to 3 years` with or without fine upto Rs. 10,000	Imprisonment up to 3 years` with or without fine upto Rs. 10,000
Judicial Powers/Interim Relief			
Summary Trial			
Principal Bench	Imprisonment up to 3 years` with or without fine upto Rs. 10,000	90 days` or 150 days` (in case of lab. Tests)	90 days` or 150 days` (in case of lab. Tests)
Appellate Authority			
Enforcement power			
Limitation period			
	90 days` or 150 days` (in case of lab. Tests)	Vested with powers of 1 st Class Judicial Magistrate	Vested with powers of 1 st Class Judicial
	Vested with powers of 1 st Class Judicial Magistrate	Enabled	Imprisonment up to 3 years` with or without fine upto Rs. 10,000
	Enabled;	State Capital	90 days` or 150 days` (in case of lab. Tests)
	New Delhi; Circuit Bench	National Commission within 30 days` with 50% of award money or Rs. 35,000 (whichever less).	Vested with powers of 1 st Class Judicial
	Supreme Court	State Capital; Circuit	

	within 30 days` with 50% of award money.	Bench at other cities.	Magistrate
	As arrears of Land & Revenue	As arrears of Land & Revenue	Enabled
	2 years` from the cause of action.	2 years` from the cause of action	District HQ
			State Commission within 30 days` with 50% of award money or Rs. 25,000 (whichever less).
			As arrears of Land & Revenue
			2 years` from the cause of action

➤ PROCEDURE OF FILLING COMPLAINT

Who can file a complaint?

- A Consumer.
- Any registered Voluntary Consumer Organization.
- The Central or State Government.
- One or more consumers on behalf of numerous consumers who are having the same interest
- Legal heirs/ legal representatives in case of deceased consumer.

When a complaint can be filed?

A complaint can be filed in writing if: -

- a. Consumer has suffered loss or damage as a result of any unfair Trade Practice.
- b. The goods purchased suffer from any defect;
- c. The trader has charged a price in excess of the price displayed or fixed by any law for the time being in force;
- d. The goods hazardous to life and safety are being offered for sale to public.
- e. The services hired or availed of, suffer from any deficiency.

Where a complaint can be filed?

If the cost of goods or service and compensation asked for is:

- Up to Rs. **25.00 lakhs** - District Forum.
- More than Rs. 25.00 lakhs and up to Rs. **1 crore** - State Commission.
- More than Rs. 1 crore - National Commission.

A model form has been provided for filing of the complaint for the convenience of the consumer.

The complaint/reply should be supported with affidavit of party and witnesses, if any.

APPEAL/REVISION

- Any party aggrieved from the final order of District Forum may appeal to State Commission within 30 days. Similarly, any party aggrieved from the final order

passed in original complaint decided by the State Commission may appeal to National Commission within 30 days.

- Order passed by National Commission in complaint filed before it is appeal able in Supreme Court within 30 days. Appeal may be preferred as per model form along with certified copy of order.
- Any order, which is not final order, may be challenged in revision before higher respective Commission.

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