

Consumer Protection Act, 1986

Chapter IV - Miscellaneous

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 for 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.

Section 28A - Service of notice, etc.

1[28A. Service of notice, etc.

(1) All notices, required by this Act to be served, shall be served in the manner hereinafter mentioned in sub-section (2).

(2) The service of notices may be made by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service as are approved by the District Forum, the State Commission or the National Commission, as the case may be, or by any other means of transmission of documents (including FAX message).

(3) When an acknowledgment or any other receipt purporting to be signed by the opposite party or his agent or by the complainant is received by the District Forum, the State Commission or the National Commission, as the case may be, or postal article containing the notice is received back by such District Forum, State Commission or the National Commission, with an endorsement purporting to have been made by a postal employee or by any person authorised by the courier service to the effect that the opposite party or his agent or complainant had refused to take delivery of the postal article containing the notice or had refused to accept the notice by any other means specified in sub-section (2) when tendered or transmitted to him, the District Forum or the State Commission or the National Commission, as the case may be, shall declare that the notice had been duly served on the opposite party or to the complainant:

Provided that where the notice was properly addressed, pre-paid and duly sent by registered post acknowledgment due, a declaration referred to in this sub-section shall be made notwithstanding the fact that the acknowledgment has been lost or mislaid, or for any other reason, has not been received by the District Forum, the State Commission or the National Commission, as the case may be, within thirty days from the date of issue of notice.

(4) All notices required to be served on an opposite party or to complainant shall be deemed to be sufficiently served, if addressed in the case of the opposite party to the place where business or profession is carried and in case of complainant, the place where such person actually and voluntarily resides.]

Section 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, make 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.

1[(3) If any difficulty arises in giving effect to the provisions of the Consumer Protection (Amendment) Act, 2002, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of the Consumer Protection (Amendment) Act, 2002.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.]

1. Inserted by Act 62 of 2002, section 26 (w.e.f. 15-3-2003).

Section 29A - Vacancies or defects in appointment not to invalidate orders

1 [29A.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.]

1. Inserted by Act 34 of 1991, section 4 (w.e.f. 15-6-1991).

Section 30 - Power to make rules

1 [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, subsection (2) of section 5, sub-section (2) of section 12, clause (vi) of sub-section (4) of section 13, clause (hb) of sub-section (1) of section 14, section 19, clause (b) of sub-section (1) and sub-section (2) of section 20, section 22 and section 23 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, clause (b) of sub-section (2) and sub-section (4) of section 8A, clause (b) of sub-section (1) and sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, clause (hb) of sub-section (1) and sub-section (3) of section 14, section 15 and clause (b) of sub-section (1) and sub-section (2) of section 16 of this Act.]

1.Substituted by Act 62 of 2002, section 27, for section "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 (vi) 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." (w.e.f. 15-3-2003).

Section 30A - Power of the National Commission to make regulations

1[30A. Power of the National Commission to make regulations

(1) The National Commission may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may make provisions for the cost of adjournment of any proceeding before the District Forum, the State Commission or the National Commission, as the case may be, which a party may be ordered to pay.]

1. Inserted by Act 62 of 2002, section 28 (w.e.f. 15-3-2003).

Section 31 - Rules and regulations to be laid before each House of Parliament

1 [31. Rules and regulations to be laid before each House of Parliament

(1) Every rule and every regulation made 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 the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 of anything previously done under that rule or regulation.

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

1. Substituted by Act 62 of 2002, section 29, for section "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 the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in 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 be 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 a State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature." (w.e.f. 15-3-2003).

THE CONSUMER PROTECTION (AMENDMENT) ACT, 2002

[Act, No. 62 of 2002]

[17th December, 2002]

PREAMBLE

An Act further to amend the Consumer Protection Act, 1986.

Beit enacted by Parliament in the Fifty-third Year of the Republic of India as follows:--

1. Short title and commencement

(1) This Act may be called the Consumer Protection (Amendment) Act, 2002.

(2) It shall come into force on such date [1](#) as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2

In the Consumer Protection Act, 1986 (68 of 1986) (hereinafter referred to as the principal Act), in section 2, in sub-section (1)-

(a) in clause (b), after sub-clause (iv), the following sub-clause shall be inserted, namely:--

"(v) in case of death of a consumer, his legal heir or representative;"

(b) in clause (c),--

(i) in sub-clause (i), for the words "any trader", the words "any trader or service provider" shall be substituted;

(ii) for sub-clauses (iv) and (v), the following sub-clauses shall be substituted, namely:--

"(iv) a trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price--

(a) fixed by or under any law for the time being in force;

(b) displayed on the goods or any package containing such goods;

(c) displayed on the price list exhibited by him by or under any law for the time being in force;

(d) agreed between the parties;

(v) goods which will be hazardous to life and safety when used are being offered for sale to the public,--

(a) in contravention of any standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;

(b) if the trader could have known with due diligence that the goods so offered are unsafe to the public;

(vi) services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety;"

(c)in clause (d),--

(i)in sub-clause (ii), the following words shall be inserted at the end, namely:--

"butdoes not include a person who avails of such services for any commercialpurpose";

(ii)for the Explanation, thefollowing Explanation shall besubstituted, namely:--

'Explanation.--Forthe purposes of this clause, "commercial purpose" does not include useby a person of goods bought and used by him and services availed by himexclusively for the purposes of earning his livelihood by means ofself-employment;';

(d)for clause (j), the following clause shall be substituted, namely:--

'(j)"manufacturer" means a person who--

(i)makes or manufactures any goods or parts thereof; or

(ii)does not make or manufacture any goods but assembles parts thereof made ormanufactured by others; or

(iii)puts or causes to be put his own mark on any goods made or manufactured by anyother manufacturer;';

(e)for clause (nn), the following clauses shall be substituted, namely:--

'(nn)"regulation" means the regulations made by the National Commissionunder this Act;

(nnn)"restrictive trade practice" means a trade practice which tends tobring about manipulation of price or its conditions of delivery or to affectflow of supplies in the market relating to goods or services in such a manner asto impose on the consumers unjustified costs or restrictions and shall include--

(a)delay beyond the period agreed to by a trader in supply of such goods or inproviding the services which has led or is likely to lead to rise in the price;

(b)any trade practice which requires a consumer to buy, hire or avail of any goodsor, as the case may be, services as condition precedent to buying, hiring oravailing of other goods or services;';

(f)in clause (o), for the words "users and includes the provision of",the words "users and includes, but not limited to, the provision of"shall be substituted;

(g)after clause (o), the following clause shall be inserted, namely:--

'(oo)"spurious goods and services" mean such goods and services which areclaimed to be genuine but they are actually not so;';

(h)in clause (r),--

(i)after sub-clause (3), the following sub-clause shall be inserted, namely:--

"(3A)withholding from the participants of any scheme offering gifts, prizes or otheritems free of charge, on its closure the information about final results of thescheme.

Explanation.--Forthe purposes of this sub-clause, the participants of a scheme shall be deemed tohave been informed of the final results of the scheme where such results arewithin a reasonable time published, prominently in the same newspapers in whichthe scheme was originally advertised;";

(ii)after sub-clause (5), the following sub-clause shall be inserted, namely:--

"(6) manufacture of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services."

3. Amendment of section 4

In section 4 of the principal Act, in subsection (1), for the words "The Central Government may", the words "The Central Government shall" shall be substituted.

4. Amendment of section 7

In section 7 of the principal Act,--

(a) in sub-section (1), in the opening portion, for the words "The State Government may", the words "The State Government shall" shall be substituted;

(b) in sub-section (2), after clause (b), the following clause shall be inserted, namely:--

"(c) such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government."

5. Insertion of new sections 8A and 8B

After section 8 of the principal Act, the following sections shall be inserted, namely:--

"8A. The District Consumer Protection Council.--(1) The State Government shall establish for every district, by notification, a council to be known as the District Consumer Protection Council with effect from such date as it may specify in such notification.

(2) The District Consumer Protection Council (hereinafter referred to as the District Council) shall consist of the following members, namely:--

(a) the Collector of the district (by whatever name called), who shall be its Chairman; and

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

(3) The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The District Council shall meet at such time and place within the district 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.

8B. Objects of the District Council.--The objects of every District Council shall be to promote and protect within the district the rights of the consumers laid down in clauses (a) to (f) of section 6."

6. Amendment of section 10

In section 10 of the principal Act,--

(a) in sub-section (1), for clause (b), the following clause shall be substituted, namely:--

"(b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely:--

(i) be not less than thirty-five years of age,

(ii) possess a bachelor's degree from a recognised university,

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that a person shall be disqualified for appointment as a member, if he--

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the State Government;";

(b) in sub-section (1A), the following proviso shall be inserted, namely:--

"Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.";

(c) for sub-section (2), the following sub-section shall be substituted, namely:--

"(2) Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier:

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-five years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is also made on the basis of the recommendation of the Selection Committee:

Provided further 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 appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned:

Provided also that a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or member, as the case may be, till the completion of his term.";

(d) in sub-section (3), the following proviso shall be inserted, namely:--

"Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the District Forum.".

7. Amendment of section 11

In section 11 of the principal Act, in subsection (1), for the words "does not exceed rupees five lakhs", the words "does not exceed rupees twenty lakhs" shall be substituted.

8. Substitution of new section for section 12

For section 12 of the principal Act, the following section shall be substituted, namely:--

12. Manner in which complaint shall be made.--(1) 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 or 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 Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general.

(2) Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.

(3) On receipt of a complaint made under sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected:

Provided that a complaint shall not be rejected under this sub-section unless an opportunity of being heard has been given to the complainant:

Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

(4) Where a complaint is allowed to be proceeded with under sub-section (3), the District Forum may proceed with the complaint in the manner provided under this Act:

Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.

Explanation.--For the purposes of this section, "recognised consumer association" means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force.'

9. Amendment of section 13

In section 13 of the principal Act,--

(a) in the marginal heading, for the words "Procedure on receipt of complaint." the words "Procedure on admission of complaint." shall be substituted;

(b) in sub-section (1),--

(i) in the opening portion, for the words "on receipt of a complaint", the words "on admission of a complaint" shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely:--

"(a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission 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;"

(c) in sub-section (2),--

(i)in the opening portion, for the words "complaint received", the words"complaints admitted" shall be substituted;

(ii)in clause (b), in sub-clause (ii) , for the words "on the basis of evidence", the words "exparte on the basis of evidence" shall be substituted;

(iii)after clause (b), the following clause shall be inserted, namely:--

"(c)where the complainant fails to appear on the date of hearing before the DistrictForum, the District Forum may either dismiss the complaint for default or decideit on merits.";

(d)after sub-section (3), the following sub-sections shall be inserted, namely:--

"(3A)Every complaint shall be heard as expeditiously as possible and endeavour shallbe made to decide the complaint within a period of three months from the date ofreceipt of notice by opposite party where the complaint does not requireanalysis or testing of commodities and within five months, if it requiresanalysis or testing of commodities:

Providedthat no adjournment shall be ordinarily granted by the District Forum unless sufficient cause is shown and the reasons for grant of adjournment have beenrecorded in writing by the Forum:

Providedfurther that the District Forum shall make such orders as to the costsoccasioned by the adjournment as may be provided in the regulations made underthis Act:

Providedalso that in the event of a complaint being disposed of after the period sospecified, the District Forum shall record in writing, the reasons for the sameat the time of disposing of the said complaint.

(3B)Where during the pendency of any proceeding before the District Forum, itappears to it necessary, it may pass such interim order as is just and proper inthe facts and circumstances of the case.";

(e)after sub-section (6), the following sub-section shall be inserted, namely:--

"(7)In the event of death of a complainant who is a consumer or of the oppositeparty against whom the complaint has been filed, the provisions of Order XXII ofthe First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall applysubject to the modification that every reference therein to the plaintiff andthe defendant shall be construed as reference to a complainant or the oppositeparty, as the case may be.".

10.Amendment of section 14

Insection 14 of the principal Act,--

(a)in sub-section (1),--

(i)in clause (d), the following proviso shall be inserted, namely:--

"Providedthat the District Forum shall have the power to grant punitive damages in suchcircumstances as it deems fit;"

(ii)in clause (e), for the words "remove the defects", the words"remove the defects in goods" shall be substituted;

(iii)after clause (h), the following clauses shall be inserted, namely:--

"(ha)to cease manufacture of hazardous goods and to desist from offering serviceswhich are hazardous in nature;

(hb)to pay such sum as may be determined by it, if it is of the opinion that loss orinjury has been suffered by a large number of consumers who are not identifiableconveniently:

Provided that the minimum amount of sum so payable shall not be less than five per cent, of the value of such defective goods sold or services provided, as the case maybe, to such consumers:

Provided further that the amount so obtained shall be credited in favour of such person and utilised in such manner as may be prescribed;

(hc) to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;"

(b) in sub-section (2), for the proviso, the following proviso shall be substituted, namely:--

"Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member."

11. Amendment of section 15

In section 15 of the principal Act, after the proviso, the following proviso shall be inserted, namely:--

"Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty per cent, of that amount or twenty-five thousand rupees, whichever is less."

12. Amendment of section 16

In section 16 of the principal Act,--

(a) in sub-section (1), for clause (b) and the proviso thereunder, the following clause shall be substituted, namely:--

"(b) not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely:--

(i) be not less than thirty-five years of age;

(ii) possess a bachelor's degree from a recognised university; and

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that not more than fifty per cent, of the members shall be from amongst persons having a judicial background.

Explanation.--For the purposes of this clause, the expression "persons having a judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:

Provided further that a person shall be disqualified for appointment as a member, if he--

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e)has, in the opinion of the State Government, such financial or other interest,as is likely to affect prejudicially the discharge by him of his functions as amember; or

(f)has such other disqualifications as may be prescribed by the StateGovernment.";

(b)after sub-section (1), the following sub-sections shall be inserted, namely:--

"(1A)Every appointment under sub-section (1) shall be made by the State Government onthe recommendation of a Selection Committee consisting of the following members,namely:--

(i)President of the State CommissionChairman;

(ii)Secretary of the Law Department of the StateMember;

(iii)Secretary incharge of the Department

dealingwith Consumer Affairs in the StateMember:

Providedthat where the President of the State Commission is, by reason of absence orotherwise, unable to act as Chairman of the Selection Committee, the StateGovernment may refer the matter to the Chief Justice of the High Court fornominating a sitting Judge of that High Court to act as Chairman.

(1B)(i) The jurisdiction, powers and authority of the State Commission may beexercised by Benches thereof.

(ii)A Bench may be constituted by the President with one or more members as thePresident may deem fit.

(iii)If the members of a Bench differ in opinion on any point, the points shall bedecided according to the opinion of the majority, if there is a majority, but ifthe members are equally divided, they shall state the point or points on whichthey differ, and make a reference to the President who shall either hear thepoint or points himself or refer the case for hearing on such point or points byone or more or the other members and such point or points shall be decidedaccording to the opinion of the majority of the members who have heard the case,including those who first heard it.";

(c)in sub-section (2), the following proviso shall be inserted, namely:--

"Providedthat the appointment of a member on whole-time basis shall be made by the StateGovernment on the recommendation of the President of the State Commission takinginto consideration such factors as may be prescribed including the work load ofthe State Commission.";

(d)for sub-sections (3) and (4), the following sub-sections shall be substituted,namely:--

"(3)Every member of the State Commission shall hold office for a term of five yearsor up to the age of sixty-seven years, whichever is earlier:

Providedthat a member shall be eligible for re-appointment for another term of fiveyears or up to the age of sixty-seven years, whichever is earlier, subject tothe condition that he fulfils the qualifications and other conditions forappointment mentioned in clause (b) of subsection (1) and such re-appointmentis made on the basis of the recommendation of the Selection Committee:

Providedfurther that a person appointed as a President of the State Commission shallalso be eligible for re-appointment in the manner provided in clause (a) of subsection(1) of this section:

Providedalso that a member may resign his office in writing under his hand addressed tothe State Government and on such resignation being accepted, his office shallbecome vacant and may be filled by appointment of a person possessing any of thequalifications mentioned in sub-section (1) in relation to the category of themember who is required to

be appointed under the provisions of sub-section (1A) in place of the person who has resigned.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or member, as the case may be, till the completion of his term."

13. Amendment of section 17

Section 17 of the principal Act shall be renumbered as sub-section (1) and in sub-section (1) as so renumbered,--

(a) in clause (a), in sub-clause (i), for the words "exceeds rupees five lakhs but does not exceed rupees twenty lakhs", the words "exceeds rupees twenty lakhs but does not exceed rupees one crore" shall be substituted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:--

"(2) A complaint shall be instituted in a State Commission within the 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 or 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 a branch office or personally works for gain, provided that in such case either the permission of the State Commission is given or the opposite parties who do not reside or carry on business or have a branch office or personally work for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises."

14. Insertion of new sections 17A and 17B

After section 17 of the principal Act, the following sections shall be inserted, namely:--

"17A. Transfer of cases.--On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before the District Forum to another District Forum within the State if the interest of justice so requires.

17B. Circuit Benches.--The State Commission shall ordinarily function in the State Capital but may perform its functions at such other place as the State Government may, in consultation with the State Commission, notify in the Official Gazette, from time to time."

15. Omission of section 18A

Section 18A of the principal Act shall be omitted.

16. Amendment of section 19

In section 19 of the principal Act, after the first proviso, the following proviso shall be inserted, namely:--

"Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the prescribed manner fifty percent, of the amount or rupees thirty-five thousand, whichever is less."

17. Insertion of new section 19A

After section 19 of the principal Act, the following section shall be inserted, namely:--

"19A. Hearing of appeal.--An appeal filed before the State Commission or the National Commission shall be heard as expeditiously as possible and an endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its admission:

Provided that no adjournment shall be ordinarily granted by the State Commission or the National Commission, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission:

Provided further that the State Commission or the National Commission, as the case may be, shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act:

Provided also that in the event of an appeal being disposed of after the period so specified, the State Commission or the National Commission, as the case may be, shall record in writing the reasons for the same at the time of disposing of the said appeal."

18. Amendment of section 20

In section 20 of the principal Act,--

(a) in sub-section (1), for clause (b) and the proviso, the following clause shall be substituted, namely:--

"(b) not less than four, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely:--

(i) be not less than thirty-five years of age;

(ii) possess a bachelor's degree from a recognised university; and

(iii) be persons of ability, integrity and standing and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that not more than fifty per cent, of the members shall be from amongst the persons having a judicial background.

Explanation.--For the purposes of this clause, the expression "persons having a judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:

Provided further that a person shall be disqualified for appointment, if he--

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the Central Government:

Provided also that every appointment under this clause shall be made by the Central Government on the recommendation of a Selection Committee consisting of

thefollowing, namely:--

(a)a person who is a Judge of the Supreme Court, --Chairman; to be nominated by theChief Justice of India

(b)the Secretary in the Department of Legal --Member; Affairs in the Government ofIndia

(c)Secretary of the Department dealing with --Member."; Consumer Affairs inthe Government of India

(b)after sub-section (1), the following sub-section shall be inserted, namely:--

"(1A)(i) The jurisdiction, powers and authority of the National Commission may beexercised by Benches thereof.

(ii)A Bench may be constituted by the President with one or more members as thePresident may deem fit.

(iii)If the Members of a Bench differ in opinion on any point, the points shall bedecided according to the opinion of the majority, if there is a majority, but ifthe members are equally divided, they shall state the point or points on whichthey differ, and make a reference to the President who shall either hear thepoint or points himself or refer the case for hearing on such point or points byone or more or the other members and such point or points shall be decidedaccording to the opinion of the majority of the members who have heard the case,including those who first heard it.";

(c)for sub-sections (3) and (4), the following sub-sections shall be substituted,namely:--

"(3)Every member of the National Commission shall hold office for a term of fiveyears or up to the age of seventy years, whichever is earlier:

Providedthat a member shall be eligible for re-appointment for another term of fiveyears or up to the age of seventy years, whichever is earlier, subject to the condition that he fulfils the qualifications andother conditions for appointment mentioned in clause (b) of sub-section (1) andsuch re-appointment is made on the basis of the recommendation of the SelectionCommittee:

Providedfurther that a person appointed as a President of the National Commission shallalso be eligible for re-appointment in the manner provided in clause (a) ofsub-section (1):

Providedalso that a member may resign his office in writing under his hand addressed tothe Central Government and on such resignation being accepted, his office shallbecome vacant and may be filled by appointment of a person possessing any of thequalifications mentioned in sub-section (1) in relation to the category of themember who is required to be appointed under the provisions of sub-section (1A)in place of the person who has resigned.

(4)Notwithstanding anything contained in sub-section (3), a person appointed as aPresident or as a member before the commencement of the Consumer Protection(Amendment) Act, 2002 shall continue to hold such office as President or member,as the case may be, till the completion of his term."

19.Amendment of section21

Insection 21 of the principal Act, in clause (a), in sub-clause (i), for the words"rupees twenty lakhs", the words "rupees one crore" shall besubstituted.

20.Substitution of new sections forsection 22

Forsection 22 of the principal Act, the following sections shall be substituted,namely:--

"22.Power and procedure applicable to theNational Commission.--

(1)The provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Commission.

(2)Without prejudice to the provisions contained in subsection (1), the National Commission shall have the power to review any order made by it, when there is an error apparent on the face of record.

22A.Power to set aside ex parte orders.--Where an order is passed by the National Commission ex parte against the opposite party or a complainant, as the case may be, the aggrieved party may apply to the Commission to set aside the said order in the interest of justice.

22B.Transfer of cases.--On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Forum of one State to a District Forum of another State or before one State Commission to another State Commission.

22C.Circuit Benches.--The National Commission shall ordinarily function at New Delhi and perform its functions at such other place as the Central Government may, in consultation with the National Commission, notify in the Official Gazette, from time to time.

22D.Vacancy in the office of President.--When the office of President of a District Forum, State Commission, or of the National Commission, as the case may be, is vacant or a person occupying such office is, by reason of absence or otherwise, unable to perform the duties of his office, these shall be performed by the senior-most member of the District Forum, the State Commission or of the National Commission, as the case may be:

Provided that where a retired Judge of a High Court is a member of the National Commission, such member or where the number of such members is more than one, the senior-most person amongst such members, shall preside over the National Commission in the absence of President of that Commission."

21.Amendment of section 23

In section 23 of the principal Act, after the proviso, the following proviso shall be inserted, namely:--

"Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited in the prescribed manner fifty per cent, of that amount or rupees fifty thousand, whichever is less."

22.Substitution of new section for section 25

For section 25 of the principal Act, the following section shall be substituted, namely:--

"25.Enforcement of orders of the District Forum, the State Commission or the National Commission.--(1)Where an interim order made under this Act is not complied with, the District Forum or the State Commission or the National Commission, as the case may be, may order the property of the person, not complying with such order to be attached.

(2)No attachment made under sub-section (1) shall remain in force for more than three months at the end of which, if the non-compliance continues, the property attached may be sold and out of the proceeds thereof, the District Forum or the State Commission or the National Commission may award such damages as it thinks fit to the complainant and shall pay the balance, if any, to the party entitled thereto.

(3)Where any amount is due from any person under an order made by a District Forum, State Commission or the National Commission, as the case may be, the person entitled to the amount may make an application to the District Forum, the State Commission or the National Commission, as the case may be, and such District Forum or the State Commission or the National Commission may issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same

manner as arrears of land revenue."

23. Amendment of section 27

In section 27 of the principal Act,--

(a) the proviso shall be omitted;

(b) after the proviso so omitted, the existing section 27 shall be re-numbered as sub-section (1) and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:--

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the District Forum or the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the Code of Criminal Procedure, 1973.

(3) All offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be."

24. Insertion of new section 27A

After section 27 of the principal Act, the following section shall be inserted, namely:--

"27A. Appeal against order passed under section 27.--(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal under section 27, both on facts and on law, shall lie from--

(a) the order made by the District Forum to the State Commission;

(b) the order made by the State Commission to the National Commission; and

(c) the order made by the National Commission to the Supreme Court.

(2) Except as aforesaid, no appeal shall lie to any court from any order of a District Forum or a State Commission or the National Commission.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of an order of a District Forum or a State Commission or, as the case may be, the National Commission:

Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days."

25. Insertion of new section 28A

After section 28 of the principal Act, the following section shall be inserted, namely:--

"28A. Service of notice, etc.--(1) All notices, required by this Act to be served, shall be served in the manner hereinafter mentioned in subsection (2).

(2) The service of notices may be made by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service as are approved by the District Forum, the State Commission or the National Commission, as the case may be, or by any other means of transmission of documents (including FAX message).

(3) When an acknowledgment or any other receipt purporting to be signed by the opposite party or his agent or by the complainant is received by the District Forum, the State Commission or

the National Commission, as the case may be, or postal article containing the notice is received back by such District Forum, State Commission or the National Commission, with an endorsement purporting to have been made by a postal employee or by any person authorised by the courier service to the effect that the opposite party or his agent or complainant had refused to take delivery of the postal article containing the notice or had refused to accept the notice by any other means specified in sub-section (2) when tendered or transmitted to him, the District Forum or the State Commission or the National Commission, as the case may be, shall declare that the notice had been duly served on the opposite party or to the complainant:

Provided that where the notice was properly addressed, pre-paid and duly sent by registered post acknowledgment due, a declaration referred to in this sub-section shall be made notwithstanding the fact that the acknowledgment has been lost or mislaid, or for any other reason, has not been received by the District Forum, the State Commission or the National Commission, as the case may be, within thirty days from the date of issue of notice.

(4) All notices required to be served on an opposite party or to complainant shall be deemed to be sufficiently served, if addressed in the case of the opposite party to the place where business or profession is carried and in case of complainant, the place where such person actually and voluntarily resides."

26. Amendment of section 29

In section 29 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:--

"(3) If any difficulty arises in giving effect to the provisions of the Consumer Protection (Amendment) Act, 2002, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of the Consumer Protection (Amendment) Act, 2002.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament."

27. Substitution of new section for section 30

For section 30 of the principal Act, the following section shall be substituted, namely:--

"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, sub-section (2) of section 12, clause (vi) of sub-section (4) of section 13, clause (hb) of sub-section (1) of section 14, section 19, clause (b) of sub-section (1) and sub-section (2) of section 20, section 22 and section 23 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, clause (b) of sub-section (2) and sub-section (4) of section 8A, clause (b) of sub-section (1) and sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, clause (hb) of sub-section (1) and sub-section (3) of section 14, section 15 and clause (b) of sub-section (1) and sub-section (2) of section 16 of this Act."

28. Insertion of new section 30A

After section 30 of the principal Act, the following section shall be inserted, namely:--

"30A. Power of the National Commission to make regulations.--(1) The National Commission may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may make provisions for the cost of adjournment of any proceeding before the District Forum, the State Commission or the National Commission, as the case may be, which

a party may be ordered to pay".

29.Substitution of new section for section31

Forsection 31 of the principal Act, the following section shall be substituted,namely:--

"31.Rules and regulations to be laid before each House of Parliament.--

(1)Every rule and every regulation made under this Act shall be laid, as soon asmay 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 in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 of anything previously done under that rule or regulation.

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

1.15th March, 2003, vide G.S.R.270 (E), dated 10th March, 2003.
