

## **Consumer Protection (Second Amendment) Rules, 2006**

**1. Short title, extent and commencement.**— (1) These rules may be called the Consumer Protection (Second Amendment) Rules, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.** – In these rules, unless the context otherwise requires--

(a) "Act" means the Consumer Protection Act 1986 (68 of 1986);

(b) "Agent" means a person duly authorised by a party to present any complaint, appeal or reply on its behalf before the National Commission;

(c) "Appellant" means a party which makes an appeal against the order of the State Commission;

(d) "Chairman" means a chairman of the Central Consumer Protection Council established under sub-section (1) of the section 4 of the Act;

(e) "Memorandum" means any memorandum of appeal filed by the appellant;

(f) "Opposite party" means a person who answers complaint or claim;

(g) "President" means the President of the National Commission;

(h) "Respondent" means the person who answers any memorandum of appeal;

(i) "Section" means section of the Act;

(j) "State" includes Union territories also;

(k) Words and expressions used in the rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

### **2A. State Governments to recognize a laboratory as an appropriate Laboratory .—**

(1) For the purpose of obtaining recognition as an appropriate laboratory, the applicant shall send application, in triplicate, in the proforma prescribed by the Bureau of Indian Standards with the relevant details to the

Department concerned with the consumer protection work in the State Government.

(2) The State Government on receiving the application from the applicant, shall forward its two copies to the Bureau of Indian Standards to assess the suitability of the laboratory from the standards prescribed by them (Bureau of Indian Standards). The fee charged by the Bureau of Indian Standards, for this purpose, shall be paid by the applicant.

(3) The State Government on receiving the recommendations and approval of the Bureau of Indian Standards shall notify that laboratory as an "appropriate laboratory" for the purpose of Consumer Protection Act, 1986 for a period of three years.

### **3. The Constitution of the Central Consumer Protection Council and the Working Groups –**

(1) The Central Government shall, by notification in the Official Gazette constitute the Central Consumer Protection Council (herein after referred to as the Central Council) which shall consist of the following members, not exceeding 35, namely:

(a) the Minister in-charge of Consumer Affairs in the Central Government who shall be the Chairman of the Central Council;

(b) the Minister of State (where he is not holding independent charge) or Deputy Minister in charge of Consumer Affairs in the Central Government who shall be the Vice-Chairman of the Central Council;

(c) the Minister in-charge of Consumer Affairs of two of the States from each region as mentioned in Schedule I to be changed by rotation on expiration of the term of the Council on each occasion;

(ca) an administrator (whether designated as administrator or Lieutenant Governor), of a Union Territory, to represent a Union Territory, as mentioned in Schedule II, to be changed by rotation on expiration of the term of the Council on each occasion;

(d) Two Members of Parliament — one from the Lok Sabha and one from the Rajya Sabha;

(f) Representatives of the Central Government Departments and autonomous organizations concerned with consumer interests—not exceeding five;

(f(a))The Registrar, National Consumer Disputes Redressal Commission, New Delhi.

(g) Representatives of the Consumer Organizations from amongst the Indian members of the International Organization, namely, Consumer International – not exceeding six, to be nominated by the Central Government;

(ga) representatives with proven expertise and experience who are capable of representing consumer interests, drawn from amongst consumer organizations, consumer activists, women, farmers trade and industry -not exceeding five, one from each of the regions specified in Schedule annexed to these rules;

(j) The Secretary in-charge of Consumer Affairs in the State to be nominated by the Central Government – not exceeding three;

(k) The Secretary in-charge of Consumer Affairs in the Central Government shall be the member – secretary of the Central Council.

(2) The term of the Council shall be three years.

(3) Any member may, by writing under his hand to the Chairman of the Central Council, resign from the Council. The vacancies so caused or otherwise, shall be filled from the same category by the Central Government and such person shall hold office so long as the member whose place he fills would have been entitled to hold office, if the vacancy had not occurred.

#### **4. Procedure of the Central Council—**

Under sub-section (2) of section 5, the Central Council shall observe the following procedure in regard to the transaction of its business,—

(1) The meeting of the Central Council shall be presided over by the Chairman. In the absence of the Chairman, the Vice-Chairman shall preside over the meeting of the Central Council. In the absence of the Chairman and the Vice-Chairman, the Central Council shall elect a member to preside over that meeting of the Council.

(2) Each meeting of the Central Council shall be called by giving, not less than ten days from the date of issue, notice in writing to every member.

(3) Every notice of a meeting of the Central Council shall specify the place and the day and hour of the meeting and shall contain statement of business to be transacted thereat.

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

(5) For the purpose of performing its functions under the Act, the Central 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 Central Council. The findings of such working groups shall be placed before the Central Council for its consideration.

(6) In connection with the journey undertaken to and fro by the non-official members for attending the meeting of the Central Consumer Protection Council or its working group, they shall be entitled to avail first class or two-tier air- conditioned class of railway accommodation by all trains (including Rajdhani Express) and claim such fare or cost of actual mode of travel, whichever is less. The non-official members from Island territories shall be entitled to, to and fro air journey (economy class) in domestic airlines from the Islands to the nearest main-land airport and thereafter rail fare by entitled class. The non-official members who are senior citizens shall be entitled to, to and fro air-journey (economy class) in domestic airlines on availing senior citizen concessional air fare for their journeys provided the distance being travelled is 1000 kms or above. The non-official members shall be entitled to a sum of Rs.1000 per day as incidental charges to cover the expenditure towards their daily allowance, lodging, local conveyance from residence to the station/airport and from station/airport to the venue of meeting and vice-versa. Every claim made under this sub-rule shall be subject to certifying that the member will not claim any benefit from any other Central Government Ministry, Department or Organization during his visit for attending the meeting of the Central Consumer Protection Council or any of its Working Group. Local non-official members residing at the place of the venue of the meeting, shall be paid consolidated conveyance, hire charges and incidental charges to cover the daily allowances, to the tune of Rs.200 per diem irrespective of the classification of the city'. Members of Parliament attending meetings of the Council or its Working Group shall be entitled to travelling and daily allowances at such rates as are admissible to such members".

(7) The resolution passed by the Central Council shall be recommendatory in nature.

**5. Place of the National Commission.**—The office of the National Commission shall be located in the Union Territory of Delhi.

**6. Working days and office hours of the National Commission.**— The working days and office hours of the National Commission shall be the same as that of the Central Government.

**7. Seal and emblem.**—The official seal and emblem of the National Commission shall be such as the Central Government may specify.

**8. Sitting of the National Commission.**—The sitting of the National Commission as and when necessary, shall be convened by the President.

**9. Staff of the National Commission.**—The Central Government shall appoint such staff as may be necessary to assist the National Commission in its day to day work and to perform such other functions as are provided under the Act and these rules or assigned to it by the President. The salary payable to such staff shall be defrayed out of the Consolidated Fund of India.

**9A. Fee for making complaints before District Forum .**— (1) Every complaint filed under sub-section (1) of section 12, sub-section (1) of section 17 and clause (a) in sub-clause (i) of section 21 of the Act shall be accompanied by a fee as specified in the table given below in the form of crossed Demand Draft drawn on a nationalised bank or through a crossed Indian Postal Order drawn in favour of the Registrar of the State Commission and payable at the respective place where the State Commission or the National Commission is situated.

(2) The concerned authority referred to in sub-rule (1) shall credit the amount of fee received by it into the Consumer Welfare Fund of the respective State and where such fund is not established into the Receipt Account of the State Government and in the case of the National Commission, to the Consumer Welfare Fund of the Central Government.

#### **TABLE**

<b>Sl. No.</b>	<b>Total Value of goods or services and the compensation claimed</b>	<b>Amount of fee payable</b>
(1) (2)	<b>District Forum</b>	(3)
(1)	Upto one lakh rupees – For complainants who are under the Below Poverty Line holding Antyodaya Anna Yojana Cards	Nil
(2)	Upto one lakh rupees – For complainants other than Antyodaya Anna Yojana card holders.	Rs.100

(3) Above one lakh and upto five lakh rupees	Rs.200
(4) Above five lakh and upto ten lakh rupees	Rs.400
(5) Above ten lakh and upto twenty lakh rupees	Rs.500
<b>State Commission</b>	
(6) Above twenty lakh and upto fifty lakh rupees	Rs.2000
(7) Above fifty lakh and upto one crore rupees	Rs.4000
<b>National Commission</b>	
(8) Above one crore rupees	Rs.5000

## TABLE

Sl.	Value of goods or services and	Amount of fee payable
(1) (2)	<b>District Forum</b>	(3)
(1) (1)	Upto one lakh rupees	Rs.100
(2)	One lakh rupees and above but less than five lakh rupees	Rs.200
(3)	Five lakh rupees and above but less than Rs.10 lakh	Rs.400
(4)	Ten lakh rupees and above but not exceeding twenty lakh rupees	Rs.500

(3) The complainants who are under the Below Poverty Line shall be entitled for the exemption of payment of fee only on production of an attested copy of the Antyodaya Anna Yojana cards.

**10. Additional powers of the National Commission, State Commission and District Forum.** – (1) The National Commission, the State Commission and the District Forum shall have power to require any person,—

(a) to produce before, and allow to be examined and kept by an officer of the National Commission, the State Commission or the District Forum, as the case may be, specified in this behalf, such books, accounts, documents or commodities in the custody or under the control of the person so required as may be specified or described in the requisition, if the examination of such books, accounts, documents or commodities are required for the purpose of this Act;

(b) to furnish to an officer so specified, such information as may be required for the purpose of this Act.

(2)(a) Where during any proceedings under this Act, the National Commission, the State Commission or the District Forum, as the case may be, has any ground to believe that any book, paper, commodity or document which may be required to be produced in such proceedings, are being or may be, destroyed, mutilated, altered, falsified or secreted, it may, by written order, authorise any officer to exercise the power of entry and search of any premises. Such authorised officer may also seize such books, papers, documents or commodities as are required for the purpose of this Act:

PROVIDED that such seizure shall be communicated to the National Commission, the State Commission or the District Forum, as the case may be, as soon as it is made or within a period not exceeding 72 hours of making such seizure after specifying the reasons in writing for making such seizure.

(b) The National Commission, the State Commission or the District Forum, as the case may be, on examination of such seized documents or commodities, as the case may be, may order the retention thereof or may return it to the party concerned.

**10A. Credit of the fine into the Consumer Welfare Fund when consumers are not identified conveniently.-** (1) Where an order is passed by the National Commission in exercise of the powers vested under clause (hb) of sub-section (1) of section 14 directing the opposite party to pay such amount as determined by it on account of loss or injury suffered due to defects in goods complained ~gains~ or alleged deficiency of service to a large number of consumers, who are not identifiable conveniently;

Such sum shall be credited by the National Commission in the Consumer Welfare Fund established by the Central Government under section 12 (C) of the Central Excise Act, '1944 (1 of 1944).

(2) Any amount credited to the said Fund shall be utilized in accordance with the provisions of the Consumer Welfare Fund Rules, 1992.

**10B. Number of Members in the National Commission.** – The National Commission shall consist of not less than four members and not more than nine members and at least one of them shall be a woman.

**11. Salaries, honorarium and other allowances of the President and Members of the National Commission.—**(1) The President of the National Commission shall be entitled to salary, allowances and other perquisites as are available to a sitting Judge of the Supreme Court.

(1A) The other members of the National Commission appointed on whole time basis shall be entitled to the following honorarium and other allowances with effect from the 1st day of April, 2006, namely :-

(a) the members shall be paid twenty-three thousand rupees per month by way of honorarium:

PROVIDED that the members, who are retired Judges of High Courts or retired Secretaries to the Government of India shall have the option to either receive consolidated honorarium of twenty-three thousand rupees per month or receive remuneration of last pay drawn less pension;

(b) a woman who has not held an office of profit earlier, on appointment as a member shall be entitled to a pay in the scale of Rs.24050-26000 per month along with other benefits;

(c) the members shall be provided with Government accommodation or receive house rent allowance of eight thousand rupees per month in lieu thereof;

(d) the members shall be paid conveyance allowance at the rate of ten thousand rupees per month, if no chauffeur driven government vehicle is provided in which event one hundred fifty liters of petrol shall be supplied or the price thereof shall be paid;

(e) the members shall be entitled to one thousand free calls for the telephone installed at their residence, with STD and ISD facilities; and

(f) the members shall be entitled to fifteen days casual leave in a year.

(2) The members shall be entitled to traveling and daily allowances on official tours at the same rates as are admissible to group 'A' Officers of the Central Government.

(3) The honorarium or the salary, as the case may be, and other allowances shall be defrayed out of the Consolidated Fund of India.

**12. Terms and conditions of service of the President and members of the National Commission.-** (1) Before appointment, the President and a member of the National Commission shall have to take an undertaking that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as such member.

(2) Every member of the National Commission shall hold office from a term of five years or up to the age of seventy years, whichever is earlier and shall not be eligible for re-appointment.

(3) Notwithstanding anything contained in sub-rule (2) the President or a member may—

(a) by writing under his hand and addressed to the Central Government resign his office at any time but his office shall become vacant only when such resignation is accepted by the Central Government,

(b) be removed from his office in accordance with the provisions of rule 13.

(4) The terms and conditions of service of the President and the members shall not be varied to their disadvantage during their tenure of office.

(5) A casual vacancy caused by resignation or removal of the President or any other member of the National Commission under sub-rule (3) or otherwise shall be filled by fresh appointment.

(6) when the office of the President of the National Commission is vacant or a person occupying such office is by reason of absence or otherwise, unable to perform the duties of his office, the same shall, save as otherwise provided in the proviso to section 22 D be performed by the senior most member of the National Commission.

(7) The President or any member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administrations of an organisation which have been the subject of any proceeding under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

**12A. Procedure for selection of members.** – (1) Save as otherwise provided in sub-rule (2), the process of appointment of a member shall be initiated at least three months before the vacancy arises.

(2) If a post falls vacant due to resignation or death of a member or creation of a new post, the process for filling the post shall be initiated immediately after the post has fallen vacant or its created, as the case may be.

(3) An advertisement of a vacancy inviting applications from eligible candidates may be published in leading newspapers in India or by vacancy circulars or both, as may be decided by the Central Government.

(4) After scrutiny of the applications received till the last date specified for receipt of applications, a list of eligible candidates alongwith their applications shall be placed before the Selection Committee constituted under the third proviso to sub-section (1) of section 20.

(5) The Selection Committee shall consider all the applications of eligible applicants referred to it.

(6) The Selection Committee shall, subject to the provisions of sub-rule (6A), assess the suitability of the candidates for the post of Member.

Provided that the Selection Committee may, if it considers necessary, depending on the number of candidates, short list them on the basis of comparative merit and experience of such candidates for selection.

(6A) The Selection Committee shall assess the suitability of the candidates and where short listing is done, from among the short-listed candidates, for the post of Member in the Following manner, namely:-

(a) in the case of candidates having judicial background, by assessing them on the basis of the judgments and other judicial orders passed by such candidates;

(b) in the case of candidates having experience of working under the Central Government or any State Government or an undertaking under the Central Government or a State Government, by assessing such candidates on the basis of their Annual Confidential Reports and their experience relevant to the post applied for;

(c) in other cases, the suitability of the short listed candidates shall be assessed by the Selection Committee on the basis of personal interview conducted by it:

PROVIDED that notwithstanding anything contained in this sub-rule, the Selection Committee may, for assessing the suitability of a class or category of candidates, if it considers necessary, call such class or category of candidates for interview for assessing their suitability for the post of Member.

(7) The Selection Committee may, on the basis of its assessment made by it, recommend a panel of names of candidates for appointment as members from amongst the applicants referred to in sub-rule (5) in order of merit for the consideration of the Central Government.

(8) The Central Government shall, before seeking approval of the Appointments Committee of the Cabinet, verify or cause to be verified the credentials and antecedents of the candidates selected by the Central Government from the panel recommended by the Selection Committee and satisfy the suitability of such candidates for appointment as members.

(9) Every appointment of a member shall be subject to his medical fitness.

**13. Removal of President or members from office in certain circumstances .-** (1) The Central Government may remove from office, the President or any member, who,—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the President or the member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest ;or

(f) remain absent in three consecutive sittings except for reasons beyond his control.

(2) Notwithstanding anything contained in sub rule (1), the President or any member of the National Commission shall not be removed from his office except by an order made by the Central Government on the grounds specified in clauses (d), (e) and (f) of that sub-rule and after an inquiry held by a sitting Judge of the Supreme Court nominated by the Chief Justice of India in which the President or member of the National Commission, as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

**14. Procedure to be followed by the National Commission.—**(1) A complaint containing the following particulars shall be presented by the complainant in person or by his agent to the National Commission or be sent by registered post, addressed to the National Commission:

- (a) the name, description and the address of the complainant;
- (b) the name, description and address of the opposite party or parties, as the case may be, so far as they can be ascertained;
- (c) the facts relating to the complaint and when and where it arose;
- (d) documents in support of the allegations contained in the complaint;
- (e) the relief which the complainant claims.

(1A) Every complaint under sub-rule (1) shall be accompanied by the relevant fee as is specified in rule 9A.

(1B) Every complaint under sub-rule (1) shall be filed in quadruplicate or with such number of copies as may be required by the National Commission.

(2) The National Commission shall, in disposal of any complaint before it, as far as possible, follow the procedure and conditions including the provisions governing adjournments as laid down in sections 12 and 13 in relation to the complaints received by the District Forum, with such modification as may be considered necessary by the Commission.

(3) On the date of hearing or any other date to which hearing could be adjourned, it shall be obligatory on the parties or their agents to appear before the National Commission. Where the complainant or his agent fails to appear before the National Commission on such days, the National Commission may in its discretion either dismiss the complaint for default or decide it on merits. Where the opposite party or its agent fails to appear on the date of hearing the National Commission may decide the complaint ex-parte.

(4) The National Commission may, on such terms as it deems fit and at any stage of the proceedings, adjourn the hearing of the complaint but the complaint shall be decided as far as possible within a period of three months from the date of notice received by opposite party where complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities.

(4A) In the event of a complaint being disposed of after the period specified in sub-rule (4), the National Commission shall record in writing, the reasons for the delay in such disposal.

(5) If after the proceedings conducted under sub-rule (3), the National Commission is satisfied with the allegations contained in the complaint, it shall issue orders to the opposite party or parties, as the case may be, directing him or them to take one or more of the things as mentioned in sub-section (1) of section 14. The National Commission shall also have the power to direct that any order passed by it, where no appeal has been preferred under section 23 or where the order of the National Commission has been affirmed by the Supreme Court under that section, be published in the Official Gazette or through any other media and no legal proceedings shall lie against the National Commission or any media for such publication.

**14A. Appeals before National Commission.-** Every appeal filed in terms of section 19 shall be accompanied by such amount as specified in the second proviso to the said section and such amount may be remitted in the form of a crossed Demand Draft drawn on a nationalized bank in favour of the Registrar, National Commission, payable at Delhi. The National Commission dealing with the appeals filed before them shall follow the provisions of section 19 and 19A as may be required to hear the appeals filed before the Commission.

**Explanation-** In this rule, "nationalized bank" means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).

**15. Procedure for hearing the appeal.-** (1) Memorandum shall be presented by the appellant or his agent to the National Commission in person or be sent by registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (I) shall be in legible handwriting preferably typed and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(3) Each memorandum shall be accompanied by a crossed demand draft as referred to in rule 14A and by a certified copy of the order of the State Commission appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of the period of limitation as specified in the Act, the memorandum shall be accompanied by an application supported by an affidavit setting forth the facts on which the

appellant relies to satisfy the National Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5)The appellant shall submit four copies or such number of copies of the memorandum to the Commission for official purpose.

(6)On the date of hearing or on any other day to which hearing may be adjourned, it s hall be obligatory for the parties or their agents to appear before the National Commission. If appellant or his agent fails to appear on such date, the National Commission may in its discretion either dismiss the appeal or decide ex-parte on merits. If the respondent or his agent fails to appear on such date, the National Commission shall proceed ex-parte and shall decide the appeal on merits of the case.

(7) The appellant shall not, except by leave of the National Commission, urge or be heard in support of any ground of objection not set forth in the memorandum but the National Commission, in deciding the appeal, may not confine to the grounds of objection set forth in the memorandum:

**PROVIDED that** the Commission shall not rest its decision on any other ground other than those specified in the memorandum unless the party who may be affected hereby, has been given, an opportunity of being heard by the National Commission.

(8) No adjournment shall ordinarily be granted by the National Commission, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Commission. The National Commission may also adjourn the hearing of the appeal suo motu, on such terms as it may think fit and at any stage of the proceedings for reasons to be recorded in writing. The appeal shall be decided, as far as possible, within ninety days from the date of its admission. In the event of an appeal being disposed of after the period so specified, the National Commission shall record in writing the reasons of the same at the time of disposal of the said appeal.

(9) The order of the National Commission shall be communicated to the parties concerned free of cost.

**15A. Sitting of the National Commission and signing of orders. -** (1) Every proceeding of the National Commission shall be conducted by the President or the senior most member authorised and at least two members thereof sitting together except when a bench is constituted by the President of the National Commission with one or more members as he may deem fit.

**PROVIDED that** where the member or members for any reason are unable to conduct the proceeding till it is completed, the President or the senior most member, as provided in section 22D of the Act, shall conduct such proceedings from the state at which it was last heard by the previous member.

(2) Every order made by the National Commission shall be signed by the President or the senior most member as provided in section 22D and at least two members who conducted the proceeding and if there is any difference of opinion among themselves, the opinion of majority shall be the order of the National Commission:

**PROVIDED that** where the proceeding is conducted by the President or the senior most member as provided in section 22D and three members thereof and they differ on any point or points, they shall state the point or points on which they differ and refer the same to the other member for hearing on such point or points and such point or points shall be decided accordingly to the opinion of the majority of the National Commission.

**16. Manner of deposit of amount in appeals before Supreme Court. –**

Every appeal filed before the Supreme Court in terms of section 23 shall be accompanied by an amount as provided in the second proviso to that section and such amount may be remitted in the form of a crossed Demand Draft drawn on a nationalized bank in favour of Registrar, Supreme Court, payable at Delhi.

**Explanation-** In this rule, "nationalized bank" means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)