

## CONSUMER PROTECTION RULES, 1987

<sup>1</sup>[GSR 398(E), dated 15th. April, 1987]

*In exercise of the powers conferred by sub-section (1) of section 30 of the Consumer Protection Act, 1986 (68 of 1986), the Central Government hereby makes the following rules, namely: -*

### 1. Short title and commencement

- (1) These rules may be called the Consumer Protection Rules, 1987.
- (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 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.

### <sup>2</sup>[2A. State Governments to recognise 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.]

### **. 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 (hereinafter referred to as the Central Council) Which shall consist of <sup>3</sup>[the following members, not exceeding 150, namely:]

(a) <sup>4</sup>[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 <sup>4</sup>[in-charge of Consumer Affairs in the Central Government ] who shall be the Vice Chairman of the Central Council;

(c) the <sup>5</sup>[\* \* \*] Minister in-charge of Consumer Affairs in States;

(d) eight Members of the Parliament-five from the Lok Sabha and three from the Rajya Sabha;

<sup>4</sup>(e) the Secretary of the National Commission for Scheduled Castes and Scheduled Tribes];

(f) representatives of the Central Government Departments and autonomous organisations concerned with consumer interests-not exceeding twenty;

(g) representatives of the Consumer Organisations or consumers-not less than thirty-five;

(h) representatives of women-not less than ten;

(i) representatives of farmers, trade and industries-not exceeding twenty;

(j) persons capable of representing consumer's, interests not specified above-not exceeding fifteen,

(k) the <sup>3</sup>[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.

<sup>6</sup>[(4) For the purpose of monitoring the implementation of the recommendations of the Central Council and to suggest the working of the Council, the Central Government may constitute from amongst the members of the Council, a Standing Working group, under the Chairmanship of the Member-Secretary of the Council. The Standing Working Group shall consist of not exceeding 30 members and shall meet as and when considered necessary by the Central Government.]

#### **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 proceeding 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.

<sup>7</sup>[(6) The non-official members shall be entitled to first class or second air-conditioned by all trains (including Rajdhani Express) to and from Railway fare or actual mode of travel whichever is less. Outstation non-official members shall be entitled to a daily allowance of one hundred rupees per day for attending the meetings of the Central Council or any working group. Local non-official members shall be paid actual conveyance, hire charges, subject to a ceiling of Rs. 75.00 per day irrespective of the classification of the city. Members of Parliament 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.

### **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 proceeding 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 to 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.

## **11. Salaries, honorarium and other allowances of the President and Members of the National Commission**

(1) <sup>8</sup>[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 and other members if sitting on whole-time basis, shall receive a consolidated honorarium of <sup>9</sup>[Rs. 10,000] per month or if sitting on part-time basis, a consolidated honorarium of <sup>9</sup>[Rs. 500] per day of sitting.]

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

<sup>10</sup>[(2A) The President and the members of the National Commission shall be entitled to conveyance allowance of one hundred fifty rupees per day of its sitting or a sum of one thousand and five hundred rupees per month, as may be opted by them.]

(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 effect prejudicially his functions as such member.

<sup>11</sup>(2) Every member of the National Commission shall hold office for 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;

(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.

<sup>3</sup>[(6) When the President of the National Commission is unable to discharge the functions owing to absence, illness or any other cause, the senior most member of the National Commission with judicial background, if authorised so to do by the President in writing, shall discharge the

functions of the President until the day on which the President resumes the charge of his functions.]

<sup>12</sup>[(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 has 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.]

### **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; <sup>6</sup>[for

(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 shall not be removed from his office on the grounds specified in <sup>6</sup>[clauses (d), (e) and (f)] of that sub-rule except on an inquiry held by Central Government in accordance with such procedure as it may specify in this behalf and finds the President or a member to be guilty of such ground.

### **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 complaint and when and where it arose;

(d) documents in support of the allegations contained in the complaint;

(e) the relief which complainant claims.

(2) The National Commission shall, in disposal of any complaint before it, as far as possible, follow the procedures laid down in sub-sections (1) and (2) of section 13 in relation to the complaint received by the District Forum.

(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 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.

(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.

## **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 (1) 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 certified copy of the order of the State Commission appealed against and such of the documents as may be required to support ground 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 six 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 shall be obligatory for the parties or their agents to appear before the National Commission. If the 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 thereby, has been given, an opportunity of being heard by the National Commission.

(8) The National Commission on such terms, as it may think fit and at any stage, adjourn the hearing of the appeal, but not more than one adjournment shall ordinarily be given and the appeal should be decided as far as possible, within 90 days from the first date of hearing.

<sup>13</sup>[(9) The order of the National Commission shall be communicated to the parties concerned free of cost.]

#### 14[15A. Sitting of the National Commission and signing of orders

1. Every proceeding of the National Commission shall be conducted by the President <sup>6</sup>[or the senior most member authorised under rule 121 and at least two members thereof sitting together :

PROVIDED that where the member or members for any reason are unable to conduct the proceeding till it is completed, the President <sup>6</sup>[or the senior most member authorised under rule 121 shall conduct such proceeding de novo.

(2) Every order made by the National Commission shall be signed by the President <sup>6</sup>[or the senior most member authorised under rule 12 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 <sup>6</sup>[or the senior most member authorised under rule 12] 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 according to the opinion of the majority of the National Commission.]

#### **Foot Notes**

1 Published in the GOI, (Ext.), Part II, s. 3(i), dated 15th. April, 1987.

2 Inserted by GSR 605(E), w.e.f. 30th. August, 1995.

3 Substituted by GSR 95(E), w.e.f. 27th. February, 1997.

4 Substituted by GSR 800(E), w.e.f. 30th. December, 1993.

5 Omitted by GSR 95(E), w.e.f. 27th. February, 1997.

6 Inserted by GSR 95(E), w.e.f. 27th. February, 1997.

7 Substituted by GSR 759(E), w.e.f. 21st. November, 1995.

8 Substituted by GSR 658 (E), w.e.f. 14th. July, 1987.

9 Substituted by GSR 88(E), w.e.f. 24th. December, 1998.

10 Inserted by GSR 88(E), w.e.f. 24th. December, 1998.

11 Substituted by GSR 522(E), w.e.f. 22nd. June, 1994.

12 Sub-rules (7), (8) and (9) omitted and sub-rule (10) renumbered as sub-rule (7) by GSR 533 (E) w.e.f. 14th. August, 1991.

13 Substituted by CSR 533(E), w.e.f. 14th. August, 1991.

14 Inserted by GSR 33 (E), w.e.f.14th. August, 1991.