

CONSUMER PROTECTION ACT

Preamble

A person who buys a good or service for his own personal use and not for further manufacture is called a **consumer**. Consumers play an important role in the market. The market for a good or service constitutes all the consumers and producers of that good or service. If there is no consumer, producers will have no one to provide the goods. However, there are regularly reported cases of **exploitation of the consumer**. Often less than the actual weight of foodstuff is sold to consumers, or many retailers sell products that are not certified. Many cases happen where more than the market price is charged to the consumer. In the light of this, **consumer protection** holds an important role.

Consumer Protection Act, 1986

Till the 1960s, India was plagued with cases of black marketeering, hoarding, inadequate weighing and food adulteration. These were problems that affected the well-being of the consumer and amount to consumer exploitation. The consumer movement began in the 1960s and gained momentum in the 1970s. Consumer dissatisfaction started to be demonstrated through the written word and in articles and newspapers. The level of dissatisfaction with sellers and manufacturers and their practices resulted in consumers raising their voice. Resultantly, the government decided to give recognition to consumer protection by enacting the Consumer Protection Act on 24th December 1986. The Act was aimed at **protecting the rights of the consumers** and ensuring free trade in the market, competition and accurate information to be available. This day is now observed as National Consumers' Day.

Consumer Rights

There are six broad consumer rights defined as per the Consumer Protection Act, 1986. These are:

Right to Safety

The Consumer Protection Act defines this right as a protection against goods and services that are 'hazardous to life and property'. This particularly applies to medicines, pharmaceuticals, foodstuffs, and automobiles. The right requires all such products of critical nature to life and property to be carefully tested and validated before being marketed to the consumer.

Right to Information

This right mentions the need for consumers to be informed about the quality and quantity of goods being sold. They must be informed about the price of the product and have access to other information specific to the product that they wish to consume.

Right to Choose

The consumer must have the right to choose between different products at **competitive prices**. Thus, the concept of a competitive market where many sellers sell similar products must be established to ensure that the consumer can actually choose what to consume and in what quantity. This is to avoid monopoly in the market.

Right to Seek Redressal

When a consumer feels exploited, he/she has the right to approach a **consumer court** to file a complaint. A consumer court is a forum that hears the complaint and provides justice to the party that has been hurt. Thus, if the consumer feels he/she has been exploited, they can approach the court using this right.

Right to be heard

The purpose of this right is to ensure that the consumer gets due recognition in consumer courts or redressal forums. Basically, when a consumer feels exploited, he has the right to approach a consumer court to voice his complaint. This right gives him/her due respect that his/her complaint will be duly heard. The right empowers consumers to fearlessly voice their concerns and seek justice in case they are exploited.

Right to Consumer Education

Consumers must be **aware** of their rights and must have access to enough information while making consumption decisions. Such information can help them to choose what to purchase, how much to purchase and at what price. Many consumers in India are not even aware that they are protected by the Act. Unless they know, they cannot seek justice when they are actually hurt or exploited.

Consumer Forums

Consumer forums or **consumer protection councils** are organizations that help represent consumer interests. They guide consumers in the process of filing complaints in the court when they are exploited and also help in spreading consumer protection awareness.

A consumer court is where the cases are actually presented and heard. It follows a three-tier quasi-judicial system. District courts deal with cases up to 20 lakhs. A state-level court deals with cases between 20 lakhs and 1 crore, while a national consumer court deals with claims that exceed the value of 1 crore.

Consumer Protection Councils

The Central Consumer Protection Council

- (1) The Central Government **shall**, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council).
- (2) The Central Council shall consist of the following members, namely:
 - (a) the Minister in charge of the consumer affairs in the Central Government, who shall be its Chairman, and
 - (b) such number of other official or non-official members representing such interests as may be prescribed.

Procedure for meetings of the Central Council

- (1) The Central Council shall meet as and when necessary, but at least one meeting of the Council shall be held every year.
- (2) The Central Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

Objects of the Central Council

The objects of the Central Council shall be to promote and protect the rights of the consumers such as,

- (a) The right to be protected against the marketing of goods and services which are hazardous to life and property;
- (b) The right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be so as to protect the consumer against unfair trade practices;

- (c) The right to be assured, wherever possible, access to a variety of goods and services at competitive prices;
- (d) The right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums;
- (e) The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers; and
- (f) The right to consumer education.

The State Consumer Protection Councils:

- (1) The State Government shall, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council for.....(hereinafter referred to as the State Council).
- (2) The State Council shall consist of the following members, namely:
 - (a) The Minister incharge of consumer affairs in the State Government who shall be its Chairman;
 - (b) Such number of other official or non-official members representing such interests as may be prescribed by the State Government.
 - (c) Such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.
- (3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.
- (4) The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

Objects of the State Council

The objects of every State Council shall be to promote and protect within the State the rights of the consumers laid down in clauses (a) to (f) of section 6.

- (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.

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.

Redressal Machinery

Consumers play a key role in maintaining the economy of India. Each and every person constitutes a consumer because each one of us is engaged in some form of exchange of goods or services through money as a medium. Gradually, there arise many kinds of disputes among the consumers as well as consumers and the sellers. In this context, it has to be stated that there lies a need for a statute which regulates the friction between the consumers and the sellers. For this purpose, Consumer Protection Act was enacted in the year 1986 to look after the various rights and duties of the consumers during the time of purchasing a product and even after that. The Act plays an important role in the fields where there arises an incidence of exchange of goods or services between two persons where money acts as a medium. The Act also provides certain guidelines as to what measures must be complied with during the time of such exchange, what are the various rights available to both the buyer and seller etc. It also provides certain provisions regarding the need and formulation of various 'Consumer Redressal Centres' both at the central as well as states level.

The Act lays down certain provisions regarding the definition of consumer, various consumer protection councils, and provisions in connection with various consumer redressal agencies in India as well as other miscellaneous provisions. Among this, provisions relating to consumer redressal agencies demand a lot of attention in the present Indian scenario. Many people are still not aware that there are such agencies working in favor of consumers in every district. Due to this reason, many of them are not getting proper solutions for their problems as consumers. Chapter III of the Act provides for the implementation of redressal agencies. The Consumer Protection Act, 1986 Section 9 provides for 'establishment of consumer dispute redressal agencies' and set up a three-tier system of consumer courts at the district, state and national levels. This lead to the formation of such as

- A District forum established by the State Government in each district of the State by its notification.
- A State Commission established by the State Government in each state by its notification and
- A National Commission established by Central Government by notification

Consumer grievances and complaints against traders are checked at these three levels. Also they provide relief and compensation to the affected consumers. Currently, there are more than 500 district courts functioning in the three tier system of India.

District Forum

Each District Forum shall consist of a person who is or has been qualified as a District judge, as the President. There must be two other persons who are not less than thirty-five years of age and also possesses a degree from a recognized university. The persons must have adequate knowledge in the field of economics, commerce, industry, public affairs, and administration. The district forum must have the jurisdiction to entertain such complaints where the value of goods or services and the compensation, does not exceed Rs. twenty lakhs. The need for district forums for consumer redressal is that majority of the people who face any consumer rights violation are unable to file a complaint in a state or national forum because such f have to look at matters concerning various other district forums which result in a large number of pending cases. District forums are also enabled with a faster way of dispensing consumer redressal as the amount of claim is pretty less than that of State/National redressal forums which enables normal people to seek a solution for their problems.

State Commission

Each State Commission shall consist of a person who is or has been a judge of High Court as its president. The Commission also consists of not less than two members, who are above thirty-five years of age and also possesses a degree from a recognized university. The persons must have adequate knowledge in the field of economics, commerce, industry, public affairs, and administration. The Act also states that not less than fifty percent of the members shall be from amongst the persons having a judicial background. The State Commission has a jurisdiction to entertain cases where the value of goods or services or the compensation claimed, if any, exceeds the number of Rs. twenty lakhs but does not exceed Rs. one crore. It also entertains appeals against any District Forum within the state and also looks after any pending disputes or cases decided by any of the District forums in which the forums have exercised a jurisdiction not vested in them by the law, or has been exercised illegally or with any material irregularity.

National Commission

The National Commission shall consist of a person, who is or has been a judge of the Supreme Court, to be appointed by the Central Government, shall be the President, provided that no appointment shall be made except after the consultation with the Chief Justice of India. The commission shall consist of not less than four members of its executive committee who shall not be less than thirty-five years of age and must be graduates from a recognized university. They must also be specialized in the areas of commerce, economics, and administration. The jurisdiction of the commission shall extend to any case where the compensation amount might exceed Rs. one crore and the Commission shall also entertain appeals against State Commissions. The Commission also has the power to check any pending disputes or cases decided by any of the State Commissions where the State Commission has exercised a jurisdiction not vested in it by law or it has been exercised illegally or with any material irregularity.

Power of Redressal Forums

There are various powers for all of the redressal forums with regards to its jurisdiction. Some of them include:

1. Examining, enforcing as well as summoning the witness on oath;
2. Discovering and producing any material evidence;
3. Receiving evidence on affidavit;
4. Requesting for report or test analysis from the concerned authorities and laboratories;
5. Issuing commission for examining the witness;
6. Enforcing any other powers prescribed by the Central or State Government.

Limitation period

The District, State or National Forum for consumer grievance redressal will not entertain a case which is filed two years after the occurrence of the case unless the party/parties can condone themselves regarding the reasons behind the delay of filing within the specified period. Such a provision was formulated to increase the accuracy of the function of such forums and also for delivering fast redressal solutions to the parties.[1]

How to file a Consumer Complaint in India?

We are all **consumers of goods and services** in one way or the other. The moment we take birth on this earth we become consumers and are entitled to seek relief under the Consumer Protection Act. These days we see that consumers are cheated and harassed in many ways. At times they are provided with inferior quality of goods, at times with less quantity than actually demanded whereas at other times the consumer is charged with excess prices than otherwise fixed for the commodity. The traders considers consumers as persons who are morons having paying capacity and can try to deceive them in every possible way.

Therefore there was a strong need felt to protect the consumers.

Although we have some laws which protect the consumers to some extent which are listed as follows:

- The Indian Contract Act, 1872
- Sale of Goods Act, 1936
- The Food Safety and Standards Act, 2006
- Standards of Weights and Measures Act, 1976
- The Dangerous Drugs Act, 1952
- The Agricultural Produce (Grading and Making) Act, 1937
- The Indian Standards Institution (Certification Mark) Act , 1952 etc.

But these laws involve the filing of a civil suit which is very expensive and time consuming and takes years in final disposal of the case.

So a need was felt that a Special Act should be enacted for Consumers which will provide speedy and simple access to justice for the Consumers. The legislature did not want the technicalities of law to be involved in an act which provides relief to the Consumers. Therefore Consumer Protection Act, 1986 was passed keeping in view the need to protect Consumers.

Now the question arises as to **Who Can File A Consumer Complaint?**

The answer to this question is **“only a CONSUMER” can file a complaint under the Act. Now we first need to identify as to Who Is A Consumer?**

A person has to satisfy the following conditions in order to be a CONSUMER:

- The person must have purchased goods for some value i.e. he must have paid money
- A person who has not himself purchased the goods but who uses the goods with the approval of the buyer is also a consumer
- A person must not have bought goods for resale or commercial purpose. But a person buying goods for self employment is a consumer.

Who file a Consumer Complaint in India ?

The Consumer Protection Act itself provides a list of persons who can file a complaint under the Act which is described hereunder

1. Firstly a Consumer
2. Secondly, Any voluntary Association Registered under the Companies Act, 1956, or under any other law for the time being in force
3. Thirdly the Central government or the State Government
4. Fourthly one or more consumers, where there are numerous Consumers having the same interest.

Conclusion

From various landmark judgments by the Supreme Court in connection with cases affecting consumer rights, it will be clear that there is an increase in the number of cases involving consumer protection when compared to the past. It indicates that people are now aware of their various rights as consumers. The Act not only covers the rights of the consumers but also provides certain duties for them too. It has been stated that it is the duty of a consumer to ask clearly about various characteristics and features of the product which he/she wishes to buy. The Act does not entertain certain malicious acts such as black marketing and selling a good above the prescribed rate of MRP. The doctrine of 'caveat venditor' (let the seller beware) has been changed into 'caveat emptor' (let the purchaser beware) so that the purchaser will also be aware of various features, merits and demerits of the good as well as protection of their rights themselves. There is still an emerging need of various other redressal machineries in this field due to the increased number of pending cases as well as for implementing alternative means in the field of consumer protection. The Act may be amended in such a way that it includes certain dispute redressal mechanisms like 'Alternative Disputes Resolution' as a core function of the said redressal agencies dealing with consumer rights.

