

Consumers... assert your Rights



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Ministry of Consumer Affairs,
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Hand Book on The Consumer Protection Act, 1986



Published By

**Shri A.K.Venkata Subramaniam Chair of Excellence on
Consumer Law and Jurisprudence
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Chennai**

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Government of India**

Hand Book on The Consumer Protection Act, 1986

Hand Book on Consumer Protection Act, 1986

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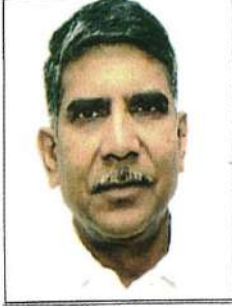
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AVINASH K. SRIVASTAVA



सत्यमेव जयते

सचिव
भारत सरकार
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MESSAGE

I am glad to know that Chair of excellence on Consumer Law and Jurisprudence, the Tamilnadu Dr. Ambedkar Law University, Chennai is bringing out a handbook on Consumer Protection Act, 1986 compiling the interpretations of the provisions of Consumer Protection Act in the orders delivered by various Consumer Fora.

In this era of market-driven economy, we are observing a culture of consumerism but there is lack of awareness among the consumers. Today, everybody is a consumer, whether he is buying goods or services. In fact, profiteering has created several problems for the consumers. On one hand they face problems of adulteration and substandard goods, on the other hand they have to face problems of obstruction in services or no services at all. Apart from this, online shopping is gaining momentum these days wherein alongwith the advantages, the consumer is also facing some problems.

In the recent times, the role of Consumer Fora to deliver Consumer Justice has become more challenging and demanding. The information provided in the handbook will provide great help in understanding the provisions of Consumer Protection Act by the Consumers in the day to day life.

I wish the Chair of excellence on Consumer Law and Jurisprudence, the Tamilnadu Dr. Ambedkar Law University, Chennai all success in their efforts to make the life of consumers comfortable.

A. Srivastava

(Avinash K. Srivastava)

Date : 18th December, 2018

Place : New Delhi.



Prof. T.S.N. Sastry, Ph.D. (Law),
Vice-Chancellor

18.12.2018


Foreword



The best aspect of human kind is its endeavour to transform lives by imparting knowledge to successive generations. We have seen a rapid change after the rise of "*Caveat Venditor*" principle that evolved from the existing "*Caveat Emptor*", doctrine. This transformation has seen the real empowerment of consumers in many developed countries and the consumer jurisprudence started to evolve and dwell in the shadow of this doctrine. The legal and judicial perspectives pertaining to the present generation of consumers also were impacted a lot and the whole world witnessed the glory of consumerism sweeping in all dimensions and spheres of life. The changes in consumer legislations and also the related laws need constant updating for the purpose of strengthening the rights and protection of consumers in the society. Globalisation and Liberalisation have literally turned the universe into a global village of goods and services and transactions leading to exchange of such services are rapidly increasing day by day. The concept and nature of consumers and consumerism are also constantly changing as a result of introduction of new business models like e-commerce, start ups etc.

The universal jurisprudence is dynamic for all legislations that are directly relevant to human rights and human lives. India is developing in a rapid manner and is one of the most prominent countries in the world for goods and services even after the significant transformation of commerce into e-commerce. "The make in India" initiatives and the digital India policies have started showing their impact in the country's economy in all spheres. The growth of consumers has also been evident as many multinational corporates have found India as the most competing business place for their sales and marketing. The positive aspect of all these developments also triggers the need for a safety valve mechanism to protect the interest of all segments of consumers. It is also pertinent to mention that many consumers who are illiterate and unaware of their basic rights under the Consumer Protection Act are also participating actively in the dynamic and complicated web of consumer and service provider arena.

In this context the Chair of Excellence in Consumer Law and Jurisprudence (CECLJ), the Tamil Nadu Dr. Ambedkar Law University has taken the imitative of bringing this handbook on Consumer Protection mainly for the purpose of spreading awareness among all segments of society. The Chair is constantly doing their best to make sure that consumer consciousness is embedded into the minds and hearts of all the consumers. Their various activities involving publication and field research have been encouraged and appreciated by many stakeholders. I thank the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs), Government of India for all the support and encouragement to CECLJ in their activities and especially in publishing this handbook. I commend the Honorary Director, Director and student researchers of the Chair who were involved in the content development and the research that preceded it.


(Prof. T. S. N. Sastry)
Vice-Chancellor



**CHAIR OF CONSUMER LAW AND
JURISPRUDENCE**



LEX SUPREMUS

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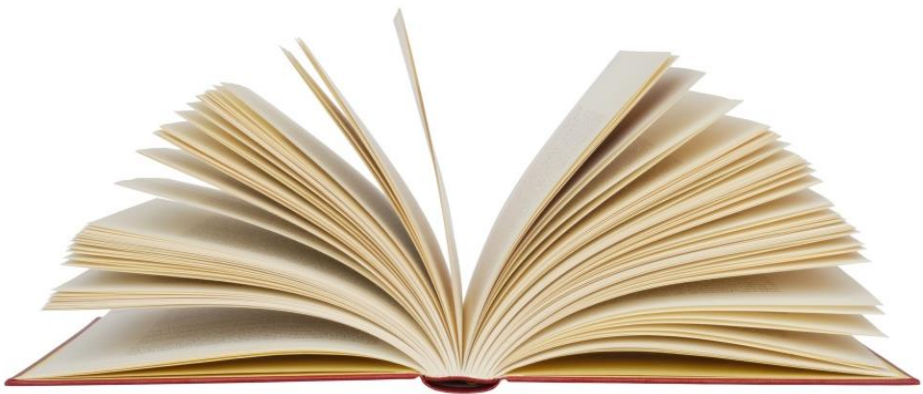
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CHAPTER -1: INTRODUCTION



The Consumer Protection Act, 1986 was legislated as combination of global forces of change that took place since the industrial revolution introducing consumers with goods and services that then propelled into this consumption increasing every year with new innovations and developments leading to the growth of manufacturers and businesses around the globe. With the development of market economy and emphasis being put on business growth and incentives for business it became imperative to protect the rights of both entrepreneurs and consumers. While the protection of the former has been the objective since evolution of corporate law, the latter has come into picture comparatively recently with the development of constitutionalism and human rights.

The remotest evolution of consumer protection law in India can be traced to bits and pieces in concrete legislations like the Code of Civil Procedure, 1908, The Indian Contract Act, 1872, The Sale of Goods Act, 1930, The Indian Penal Code, 1860, The Standard of Weights and Measures Act, 1976 and Motor Vehicle Act, 1988, however the scope of the same in regards to that particular subject matter was very scarce. A step further in this direction was taken with the Monopolies and Restrictive Trade Practices Act, 1969 as well as the Prevention of Food Adulteration Act, 1954 which were built to prevent exploitation of consumers and protect their interests in a way that was streamlined and focused on the rights of the consumer and the duty of the manufacturer as well as seller to ensure that in the process of making a quick buck they do not play with the health and well-being of the consumer. It has been famously quoted over the course of history that Money might not be everything but is quite something.

However, these legislations dealing with consumer protection on the side lines could not operate in the long run and there was an impending need to bring a

legislation focused solely on the subject matter. To achieve the same and provide for better protection of the interests of the consumer, the Government of India introduced the Consumer Protection Bill in the Parliament and was subsequently passed by both the houses of Parliament and officially received the approval of the President on 24th December, 1986. Thus, The Consumer Protection Act, 1986 (68 of 1986) came into existence and in order to keep up-to-date with the changes in the society, the Act was subsequently amended in 1991, 1993, and 2002.



India is a welfare state and as such it is essential for the country to be in alignment with the objective that the nation was built to emphasize on the enactment of socio-economic legislations in the country. The Consumer Protection Act, 1986 was one such legislation, an act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.¹ Like every other legislation, this act was also prepared emphasizing on comparative analysis of consumer protection laws in other national jurisdictions as well as giving adequate representation to consumers, trade and industry experts as well as enforcement agencies within the government.

The main objective with which the Act was enacted was to provide consumer protection and in being more effective in achieving its objective while paying attention to the existence of a sound market economy and has provisions which are compensatory in nature, rather than being punishing in nature. This ensures that the application of the provisions of the Act is serviceable, practicable, and handy and at the same time delivers speedy, cost effective redressal to the consumer's grievances, as well as providing remedies and compensation whenever it is due.

¹Preamble, The Consumer Protection Act, 1986

PREAMBLE OF CONSUMER PROTECTION ACT

Law is dynamic and has to be adapted to the changes in the society; however, these changes need to be consistent with the purpose with which the Act was legislated providing a guiding force to limit the scope of further amendments. In that light, the preamble of Consumer Protection Act, 1986 provides that:

“An act to provide for better protection of the interest of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumer’s disputes and for matters connected therewith.”²



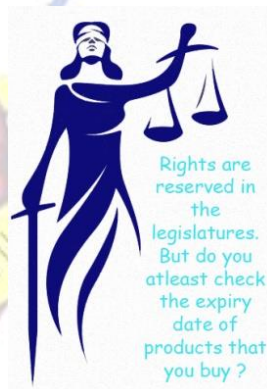
The preamble clearly defines the scope of the legislation. The most important objective of the legislation is to provide protection to the interest of consumers through the mechanism of consumer protection authorities that are built to redress consumer’s disputes and grievances.

²*Ibid.*

SHORT TITLE, EXTENT, COMMENCEMENT AND APPLICATION

The Consumer Protection Act, 1986 was a landmark socio-economic legislation that was met with a lot of appreciation from the general public. The Statement of Objects and Reasons of the present Act seeks to promote and protect the rights of consumers such as³

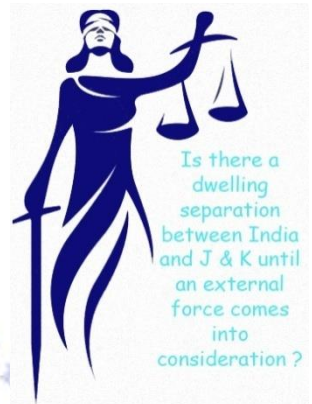
- i. The right to be protected against marketing of goods and services which are hazardous to life and property;
- ii. The right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be, so as to protect the consumers against unfair trade practices;
- iii. The right to be assured, wherever possible, of access to a variety of goods and services at competitive prices;
- iv. The right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums;
- v. The right to seek redress against unfair trade practices or restrictive trade practices or dishonest exploitation of consumers; and
- vi. The right to consumer education.



³Statements of Objects and Reasons, the Consumer Protection Act, 1986

APPLICABILITY OF THE ACT

The Act came into force in parts wherein Chapter I, II and IV of the Act⁴ came into force on 15th April, 1987 whereas Chapter III of the Act⁵ was brought into force from 1st July, 1987. **The Act is applicable to the whole of India except the State of Jammu and Kashmir.**⁶ The State of Jammu and Kashmir has a separate legislation on the subject called the Jammu and Kashmir Consumer Protection Act, 1987 that has provisions enacted along the lines of the Central Act. The Act has undergone numerous amendments to adapt and accommodate customer grievances related to changing goods and services in our market economy.



In consequence of having two legislations in the country on the same subject matter, a dispute came to light regarding the application of the Jammu and Kashmir 1987 Act in case of rise of cause of action in one place and the complaint made in another jurisdiction⁷ where it was held that, “since there is a separate Jammu and Kashmir Consumer Protection Act, 1987, and the entire transaction and dispute took place at Srinagar and Jammu, this commission at Chandigarh has no jurisdiction.”⁸

THE MAHARAJA GURU DEV DATTA UNIVERSITY
CHAIR OF CONSUMER LAW AND JURISPRUDENCE

⁴Dealing with Preliminary, Consumer Protection Councils, and Miscellaneous Provisions

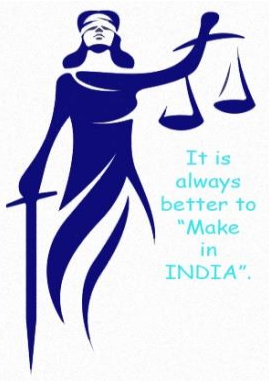
⁵Dealing with Consumer Disputes Redressal Agencies

⁶Section 1 (2) of the Consumer Protection Act, 1986

⁷Hindustan Petroleum Corporation vs. Jammu & Kashmir Bank, Consumer Protection Reports 1997(2) Page 228, Chandigarh.

⁸Ibid.

NON APPLICABILITY OF THE ACT



The application of the Consumer Protection Act, 1986 is not applicable to cases involving cause of action arising outside India⁹ and the act applies to “all goods and services” except those which are expressly excluded by the central government by notification section 1(4).

WHO CAN MAKE A COMPLAINT?

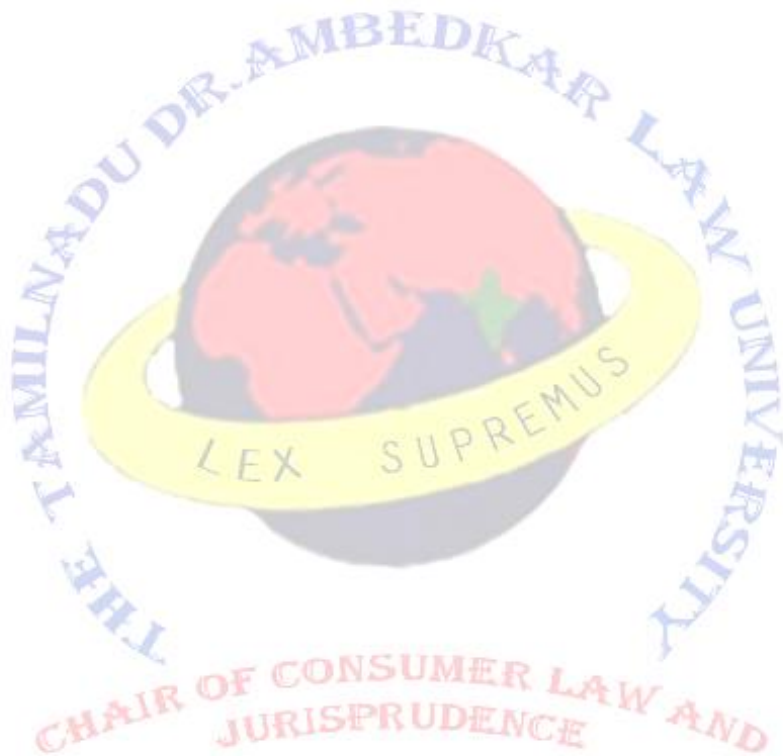
The procedure to settle a dispute related to violation of consumer’s rights is found under the Consumer Protection Act, 1986 where there is a complaint from the complainant, which implies that the dispute redressal mechanism cannot initiate action by itself. For better understanding of the same, the term ‘complaint’ has been defined in section 2(1) (b) of the Act. According to clause (b) of section 2(1) of the Consumer Protection Act, a complaint can be made by any of the following:



- i. a consumer or
- ii. any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956), or under any other law for the time being in force; or

⁹*Gulab Hotchand Bhachandaney vs. Egypt Airlines & others (Consumer Protection Reports 1993 (3) Page 385 National Commission*

- iii. the Central Government or any State Government, who or which makes a complaint; or
- iv. one or more consumers, where there are numerous consumers having the same interest;
- v. In case of death of a consumer, his legal heir or representative.¹⁰



¹⁰Section 2(1)(b) of the Consumer Protection Act, 1986

CONSUMER

Upon the examination of the definition of 'complaint' we find that in four out of five circumstances there is necessity of being a consumer to bring an action under the Act. For better understanding of the same we look at the definition of consumer. According to Section 2(1) (d) of the Act consumer means any person who:

- (i) buys any goods for a consideration which has been **paid or promised or partly paid and partly promised, or under any system of deferred payment** and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised or under any system of deferred payment when such use is made with the approval of such person but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purpose.¹¹

The act provides all enclosing definition of consumer to broaden the net of application of the Consumer Protection Act, 1986 as much as possible. The definition of consumer has been divided into two parts:-

- (i) Consumer of goods
- (ii) Consumer of services

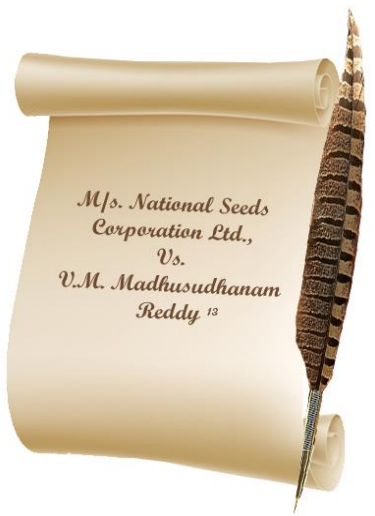
¹¹Section 2(1)(d) of the Consumer Protection Act, 1986

CONSUMER OF GOODS

Further elaborating on the provision we find that, according to sub-clause (i) of section 2(1) (d), a consumer of goods means any person who¹² –

- a) Buys any goods for consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment, and

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Facts

The appellant, a Government company, is engaged in producing quality seeds and supply the same to farmers. The respondent owns land and is engaged in agricultural or seed production. The respondent received seeds with defective quality.

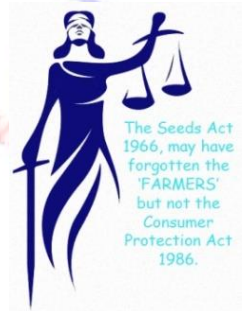
Question of Law

Whether the consumer who purchased seeds provided by the corporation was entitled to file complaint under the Act?



Held

The issues relating to the Quality of seeds are governed by the Seeds Act, 1966. However, the Seeds Act, 1966, does not have any provision for compensating farmers who suffer loss due to supply of defective seeds. The court held that complaints of defective seeds by farmers could be made under the Act.



¹²Section 2(1)(d)(i) of the Consumer Protection Act, 1986

¹³AIR 2012 SC 1160

- b) Includes any user of such goods other than the person who buys them, when such use is made with the approval of the buyer.

14



Facts

A, went to a restaurant with a woman friend and bought one bottle of ginger beer manufactured by the defendants. The woman consumed part of the contents but when the remaining was poured into the glass, she observed a decomposed body of a snail into it. The ginger-beer bottle, being opaque and sealed, the presence of a snail could not have been observed earlier. The woman brought an action against the manufacturer for negligence and alleged that by taking a part of the contaminated drink, she had contracted serious illness.

Question of law

Whether the manufacturer of drinks owes a duty of care to every possible consumer of his product?



Held

The manufacturer owes a duty of care to every possible consumer of his product and hence the manufacturer was made liable.

- c) Does not include a person who obtains such goods for resale or for any commercial purpose. Commercial purpose does not include use by a consumer of goods bought by and used by him exclusively for the purpose of earning his livelihood, by means of self-employment.

¹⁴(1932) A.C. 562



Facts

The complainant who was a contractor by profession purchased a computer for personal use. But the computer was used by his office staff for business. The computer did not work properly from the very beginning.

Question of Law

Whether a person who purchased goods for commercial purposes can be a consumer and can help file a case under Consumer protection Act?

Held

The National Commission held that **the computer was purchased for commercial purposes and the complainant was not a consumer.** The complaint was therefore dismissed.



Facts

The complainant booked one premier 137-D taxi and deposited the full amount. The car was promised to be delivered by 10.09.1992 but it was delivered only on 6.1.1993.

Question of law

1. Whether there is a deficiency of service on the part of the opposite party?

¹⁵I (1996) C.P.J. 118 (N.C.)

¹⁶I (1994) C.P.J 24

2. Whether the taxi purchased for the purpose of self-employment is a commercial purpose or not?

Held

1. That there was deficiency in service on the opposite party and compensation must be paid for the same.
2. **The taxi purchased for the purpose of self-employment is not a commercial purpose and hence it is a consumer complaint after the amendment of the C.P.A in 1993.**



The elements provide that to be taken into the definition of a consumer dispute:

- There should be a sale transaction between the seller and the buyer,
- The sale must be of goods,
- The buying of goods must be for consideration,
- The consideration has been paid or promised or partly paid and partly promised, or under any system of deferred payment; and
- The user of the goods may also be a consumer when such use is made with the permission of the buyer.

A person who obtains the goods for resale or for any commercial purpose is not included within the meaning of the term consumer.¹⁷ **This clearly provides that the act has been enacted for the relief of the general public and not the commercial giants,** they are supposed to take recourse to the normal judicial mechanism the righteousness of which is open to debate.

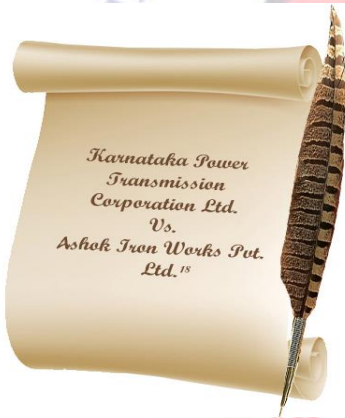
¹⁷ Explanation to Section 2(1)(d)(i) of the Consumer Protection Act, 1986

CONSUMER OF SERVICES

The second part of Section 2(1) (d)(ii) includes that the term 'consumer' includes a consumer of services which provides that any person, who

- (i) Hires or avails of any services for consideration which has been **paid or promised or partly paid and partly promised or under any system of deferred payment**, and
- (ii) Includes any beneficiary of such services other than the person who hires or avails of them, when such services are availed of with the approval of the hirer.

A private company can also be treated as a person under section 2 (1) (d) of the act.



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Facts

The Ashok iron works Pvt Ltd was not supplied electricity by the transmission company.

Question of Law

Whether a private limited company can be included in the term 'person' under section 2 (1) (d) of the Act?

Held

The court held that the definition of person given in section 2 (1) (m) of the Act is an inclusive definition and **the term person included jurisdiction person like a company**. The court further held that the non-supply of electricity to a manufacturing unit by the transmission company within fixed time, amounted to deficiency in service and the complaint for the same was maintainable under the consumer Forum.



¹⁸A.I.R. 2009 SC 1905

For the purpose of consumer of services, it is essential that the services must have been hired or availed for the consideration. But it is not essential that the payment of consideration must be made immediately, it may be paid afterwards or even in instalment. **The services which are rendered free of charge or under contract of personal service are outside the scope of the act.**



19

Facts

The complainant, who paid house tax including the health cess, brought an action against the Bangalore development authority for having failed to check the danger of stray dogs and claimed compensation for a dog bite.

Question of Law

Whether a tax payer could be considered as a consumer in respect of specific service rendered by an authority?

Held

It was held that there is **no quid pro quo** (a favor or advantage granted in favor of something) between the tax paid and the general duty of the Bangalore Department Authority, the Complainant is not the consumer within the meaning of Section 2 (1) (d) (ii) of the Act and therefore his complaint has to be dismissed.



¹⁹I (1991) C.P.J. 657

VOLUNTARY CONSUMER ASSOCIATION

According to sub-clause (ii) of clause (b) of section 2(1) of the Consumer Protection Act, 1986, any voluntary consumer association registered under the Companies Act, 1956(1 of 1956) or under any other law for the time being in force, is eligible to make a complaint under the Act. Under this section it has been provided that a complaint can be filed under this act by a recognized consumer association, irrespective of paying notice to whether the aggrieved consumer to whom the goods in question were sold or delivered or the unsatisfactory service provided is the member of such association or not. Therefore, these consumer associations are empowered to make a complaint on the behalf of other aggrieved consumers as well.



The consumer association itself is not a consumer. It can file a complaint on behalf of or along with a consumer. An association cannot file a complaint on its own without representing any consumers,



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Facts

The respondent company did not refund the amount to the persons who cancelled their order. The complainant, a voluntary consumer association, spent enormous amount in collecting all the data covering 934 persons to whom the amount of deposit for booking a scooter had not been refunded on cancellation of the booking.

²⁰*I (1991) C.P.J. 26*

Question of Law

Whether a voluntary consumer association can file a case on behalf of the consumers under the Act?



Held

The court granted the relief to 934 consumers represented by the voluntary consumer association and also directed the company to submit a list of all other unascertained persons who are similarly situated by treating that application as public interest litigation. The respondent company was directed to pay to the complainant Rs. 5000 as the costs of this petition.



CENTRAL OR STATE GOVERNMENT

As per the provision laid down in Section 2(1) (b)(iii) of the Consumer Protection Act, 1986 it is laid down that the Central Government as well as a State Government can represent a complainant within the scope of the Act and as such the criteria of commercial purpose does not apply to them. As per the provision contained in clause (d) of section 12 of the Consumer Protection Act, 1986, a complaint in relation to any goods sold or delivered or any service provided, may be filed with the Consumer Forum by the Central Government or the State Government supporting the provision contained in Section 2(1) (b)(iii).



SUBJECT MATTER OF COMPLAINT

As per the provision contained in Section 2(1) (c) of the Consumer Protection Act, it is provided that the scope of the subject matter against which a valid complaint can be made under the Act is given below. Quoting directly from the same, a complaint can be made in writing by a complainant in the field of one or more of the options provided below:

- (i) In consequence of an unfair trade practice or a restrictive trade practice that has been adopted by any trader or service provider;



Facts

Mr. Desh Deepak purchased a pouch of Dalda ghee marked as 1 litre but the actual content was 570 grams i.e., 327 grams less than the printed weight.

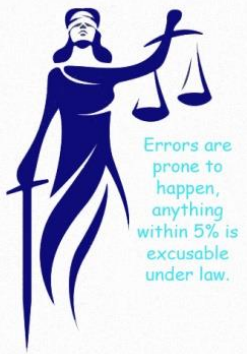
²¹II (1999) C.P.J. 603 (Punjab S.C.D.R.C.)

Question of Law

Whether a wrong quantity of packed commodities amounts to unfair trade practice?

Held

The court held that the sale of an underweight article was an unfair trade practice and directed the manufacturer to pay compensation of Rs.10000 to the complainant.



According to Rule 2 (i) (i) of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 the **maximum permissible error in deficiency for such product is 5%** i.e., in a packet with contents of 950 grams and above, there is no Unfair Trade Practice.

22

Facts

The complainant purchased a sealed packet of surf stating to have 1 Kg contents. In fact the weight of the surf including packet was 963 grams.



Question of Law

Whether an underweight packet within permissible limits is an unfair trade practice?



Held

The weight of the empty packet was 10 grams. Therefore net content (963 grams) minus the empty packet (10 grams) would be 953 grams. Since the error is within the limit permitted by Law, it was held to be not an Unfair Trade Practice.

²² II (1999) C.P.J. 568 (Punjab S.C.D.R.C)

- (ii) In consequence of goods bought by him/her or having agreed to be bought by him happens to suffer from one or more defects;

23

Facts

The complainant placed an order with the opposing party for the purchase of a computer, and made necessary payment. **The computer was installed but accessories were not given.** The complainant cancelled the order and sought refund of the amount paid. The computer was purchased for earning livelihood by self-employment.



Question of law:

Whether the complainant can cancel the order and claim refund after receiving part delivery?



Held

The complainant was a consumer and the order was cancelled. The opposite party was directed to refund a sum of Rs.1,32,000 with interest @ 15% p.a. and Rs.1500 as costs.

- (iii) In consequence of the services hired or availed of or agreed to be hired or availed of by him/her suffer from any deficiency in any respect;

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²³ II (1995) C.P.J. 504 (Karnataka S.C.D.R.C)



²⁴Facts

The complainants booked a shop in a commercial complex and deposited 85% of the cost price. Consequently the booking was cancelled and the amount was refunded by the cheque which bounced. A complaint was filed against the opposite party accusing for the dishonour of cheques and demanding for the refund of money amounting to deficiency of service. Consequently the opposite party raised a preliminary objection that, since the shop

was booked for commercial purpose, the consumer forum had no jurisdiction under this matter.

Question of law

Whether the consumer forum have jurisdiction in services availed for commercial purposes?



Held

It was held that the complainant was entitled to refund deposited amount with interests and costs.

- (iv) In consequence of any trader or service provider, as the case may be, having charged for the goods or the services mentioned in the complaint a price in excess of the allotted price:
- fixed by or under any law for the time being in force;
 - Displayed on the goods or any package containing such goods;

²⁴II (2001) C.P.J 256 (Delhi S.C.D.R.C)

- c. Displayed on the price list exhibited by him or under any law for the time being in force;
- d. Agreed between the parties.



Facts

The complainant booked a Maruti Car-800 TRI-Model on 02-07-1990. The vehicle was to be delivered on or before 07-12-1990 but was actually delivered in March, 1991. There was increase in price by Rs.12, 995 w.e.f. 20-12-1995. The complainant was made to pay the increased price.

Question of Law

Whether the complainant has to pay the increased price or not?

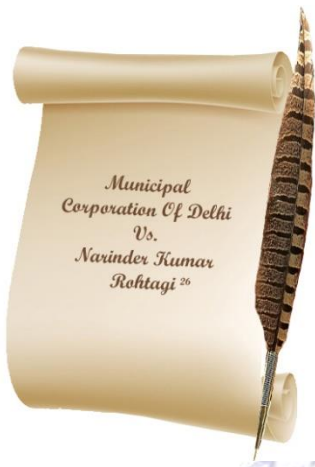
Held

The court held that the excess price paid by the complainant should be refunded to him.



- (v) In consequence of 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;

²⁵III (1995) C.P.J. 127



²⁶Facts

The water supplied by the Municipality was found to be contaminated. It was not transparent and impurities were visible even without a laboratory test. The complainant and his family suffered from water borne diseases.

Question of Law

Whether the Municipality can be held liable for supplying contaminated water?



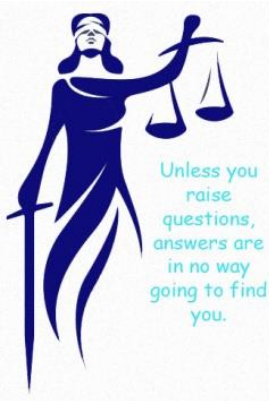
Held

The Municipality was directed to supply hygienic water and was also directed to pay Rs.1000 as compensation to the complainant.

- (vi) In consequence of services that can be stated to be hazardous or likely to be hazardous to life and safety of the public could be compromised, then the service provider on grounds of reasonableness could have known with due diligence to be injurious to life and safety.

²⁶II (1993), C.P.J. 811 (Delhi S.C.D.R.C.)

HOW TO MAKE A COMPLAINT?



The complaint under this provision is required to be **made in writing** containing,

- a. Name and address of the complainant and the opposite party,
- b. Description of the product,
- c. The complaint is required to state the facts as well as provide any documentary evidence supporting the claim along with the relief sought by the complainant.

COMPLAINT AGAINST DEFICIENT SERVICES

Upon studying the mentioned sections we can conclude that a valid complaint may be filed in consequence of any services which suffer from deficiency. For better understanding of the same the term 'service' and 'deficiency' have been defined under the Act.

The term '**service**' has been provided in Section 2(1) (o) of the Consumer Protection Act, 1986 as follows:

“Service means service of any description which is made available to potential users and includes but not limited, to the provision of facilities in connection with banking, financing, transport, processing, supply of electrical or other energy, boarding or lodging or both, housing construction entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.”

It is essential to note here that the presence of the phrase ‘made available to potential users’ implies that it is in relation of **services available to any potential user interested in the same.**

Also, the phrase, ‘but does not include rendering of any service free of charge’ implies that the **service should be chargeable.**

Analysing this definition we find that service industries operating in this market economy like medicine, hospitality, law, engineering, accountancy do not find a place in this definition however the same can be implicitly construed.



Facts

The complainant engaged the opposite party, and advocate for filing the suit and paid a fees of Rs.130 to him. The opposite party failed to file a case.

Question of law

Whether the advocate is liable to refund the fees or not?



Held

He was held liable to refund the fees and pay Rs.250 as compensation to the complainant.

Facts

The complainant, a married woman, aged 40 years, noticed development of a painful lump in her breast. The opposite party hospital while treating the lump, removed her uterus without justification.



Question of Law

Whether the hospital will be liable for the deficiency of service?



Held

It was held to be a case of deficiency in service for which the opposite party was required to pay Rs.2, 00,000 as compensation to the complainant.

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Facts

The complainant was a panel advocate of the opposite party. He filed a complaint against the non-payment of his professional fees as prescribed.

Question of law

Whether the dispute will come under the Act?

²⁸III (1998) C.P.J 586 (Tamil Nadu S.C.D.R.C.)

²⁹II (2001) C.P.J 192 (Uttar Pradesh S.C.D.R.C.)

Held

It was held that it was not a consumer dispute as the same was not covered under the Act. The complaint was dismissed and the complainant was free to approach proper civil court for relief.



The term '**deficiency**' is defined under in section 2(1) (g) of the Consumer Protection Act, 1986.

“Deficiency means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be contained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.”

This definition of deficiency encloses in its scope to incorporate any short of imperfection, shortcoming or inadequacy in the quality, nature and manner of performance in relation to any service.



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Facts

*The complainant, an advocate, purchased tickets from Cuttack to Bangalore, to take his son for treatment there. The Gauhati express which was to leave Bangalore at 10.30 p.m. on 9-6-1990 actually started at 9 a.m. on 10-06-1990. The complainant suffered inconvenience and expenses and had to hire to a lodging room. **The railway failed to disclose the reason for the delay.***

³⁰III (1997) C.P.J. 198 (Orissa S.C.D.R.C.)

Question of Law

Whether delay in train timings is considered as a deficiency in service or not?

Held

It was held that such act of railways is a deficiency in service. Each of the complainants was awarded a compensation of Rs.500.



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Facts

The husband of the complainant took Jeevanmitra insurance policy on 23.11.1991 from the L.I.C 25,000. The insured died on 8.7.1993 due to cardio respiratory arrest. The claim made by the complainant who was the nominee of the policy was cancelled by the insurer on the ground that the insured suppressed the fact of his suffering from diabetes from the last 12 years. That fact came to the knowledge of the insurer from the hospital record of the hospital in which the deceased has been admitted.



Question of law

Whether the cancellation of the claim by the L.I.C is arbitrary (based on random choice or personal whim, rather than any reason or system) or not?

Held

The cancellation of the claim was held to be not arbitrary. It was also held to no deficiency in service and therefore L.I.C was justified in cancelling the claim.



³¹III (1999) C.P.J 63 (Andhra Pradesh S.C.D.R.C.)

Act should not be in derogation of any other law

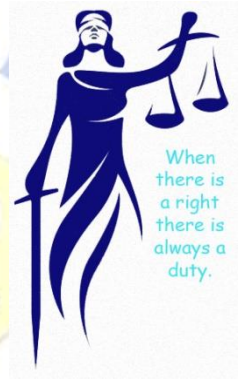
Section 3 of the Consumer Protection Act, 1986 provides that Act should not be in violation of any other law. This implies that **the provisions of this Act shall be in addition to and not in violation of the provisions of any other law** for the time being in force implying the harmonious existence of other legislations with this one.



UNFAIR TRADE PRACTICE

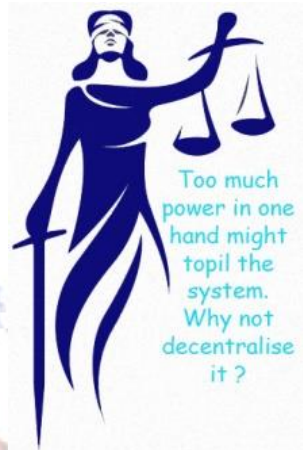
The consumer forum is entitled to protect the consumers from deceptive business practices. The advertisers make the purchasers to believe that they will be getting a great deal in terms of price when they buy the product in question. This method was introduced for the purpose of promoting the use of goods or service by any deceptive mean or method. They are generally divided into six categories:

1. Making any representation orally or written or visible representation that provides false representation regarding quality, quantity, standard, grade, composition style or model of goods
 - False representation of standard, quality or grade of services
 - Representation of old goods as new goods.
 - Represents that the seller or approver has approval or sponsorship that they do not have.
 - Gives fake warranty or guarantee.
 - Fake promises to repair, replace or maintain goods.
 - Misleading the public concerning its price.
 - False and misleading facts.
2. Wrongful publication in any advertisement.
3. Withholding any participants from any schemes, gifts or items free of charge, on its closure, information about the final results of the scheme.
4. Sale or supply of goods which do not have the quality or standard prescribed by the respective authority for safe use of such goods.
5. Hoarding or destruction of goods or refusing to sell goods or provide service with an intention to increase the price of that goods or services or the price of similar goods or services.
6. Manufacturing and offering fake goods.



CHAPTER -2: CONSUMER PROTECTION COUNCIL

When we approach the market as a consumer, we expect value for money, *i.e.*, right quality, right quantity, right prices, information about the mode of use, etc. But there may be instances where a consumer is harassed or cheated. Therefore, the Act puts responsibility on the central and state government to create consumer protection council at the central, state and district level to promote consumerism which actively promotes consumer protection activities. This Act provides a platform for affected parties or consumers to put forth their complaints before the council and also seeks to provide better protection to the interests of the consumers and for that purpose made provisions for the establishment of Consumer Protection Councils and other authorities for resolving consumers' disputes.



The first National Consumer Protection Council evolved from the first attempt to bring about a far reaching legislation aimed at the protection of the interests of the consumers and for the settlement of consumer's disputes and redressal of consumer's complaints. This happened in the March of 1985, when the UN Guidelines on Consumer Protection were being adopted in New York. A 28 member National Consumer Protection Council was formed which consisted of various ministry representatives. This council after two initial meetings organized a National Workshop on Consumer Protection on March 11-15, 1985 taking on board consumer representations. Subsequent to this, a draft bill was discussed at another meeting on January 20-21, 1986 leading from which the Consumer Protection Act, 1986 was passed on December 17, 1986.

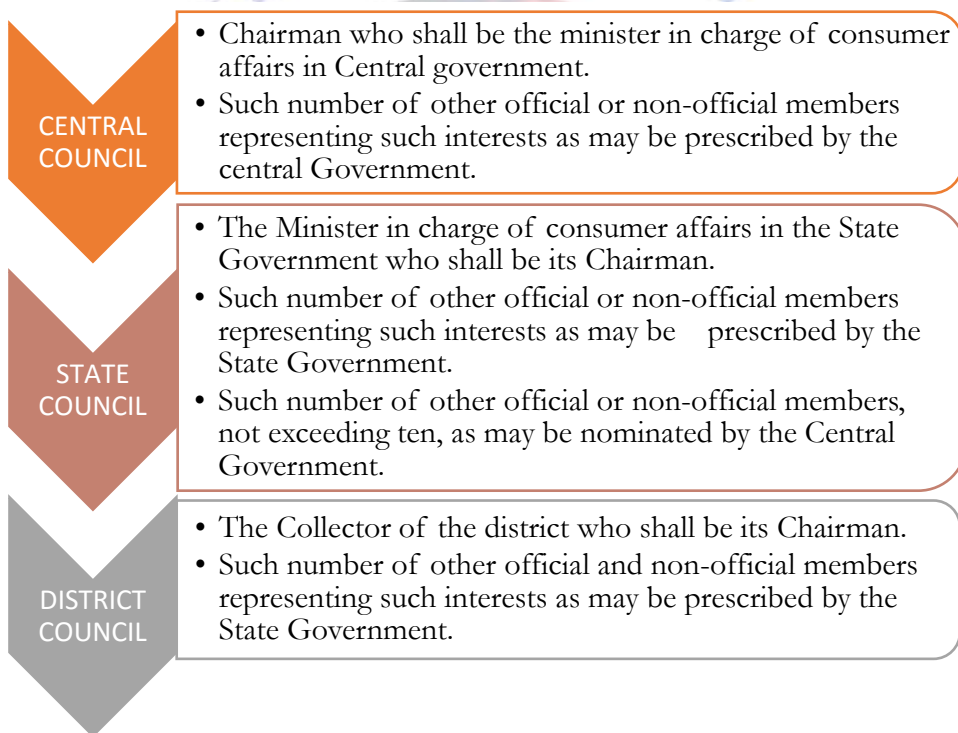
The provisions under Chapter-II of the Consumer Protection Act, 1986 deals with the establishment of central consumer protection council and state consumer protection council. The Consumer Protection Councils have been

structured as advisory bodies under this Act. The functions include protection and promoting legal awareness of the rights of the consumers. This leads to making consumers aware of their rights that equip them to take a stand in case their rights have been violated and any harm has been suffered.

STRUCTURE OF THE CONSUMER PROTECTION COUNCIL

Consumer Protection Councils are formed at three different levels i.e. at Central, State and District level for effective administration of the provisions of the Act. Further, to ensure that these councils are situated at the reach of each and every people of the country.

Following is the composition of members at each council:



A) Central Consumer Protection Council:

For the promotion and protection of consumers, the Consumer Protection Act, *inter alia*, provides for the establishment of consumer councils at the central and state levels.

- Section 4 of the Act empowers the central government to establish the Central Consumer Protection Council with the Minister-in-Charge of Consumer Affairs in the central government as its chairman.
- There have to be other official or non-official members, as may be prescribed in this behalf, keeping in view the diverse interests which need to be represented in the Central Council.
- The Central Council should meet at least once in a year.
- The date and place for the meeting of the Central Council is to be fixed by the chairman.

B) State Consumer Protection Councils:

Section 7 makes provision for the establishment of consumer protection councils in states with the same objects, within the states as have been laid down in section 6 of the Act for the Central Council.

- The chairman of a state consumer protection council would be the Minister-in-charge of the Consumer Affairs in the state government who would have the power to call the meetings of the council and decide the time and venue for the meetings.
- As in the Central Council there should be such other official and non-official members as the state government may prescribe representing various related sectors.
- The central government may also nominate certain official or non-official members to the state council, not exceeding ten.
- The state consumer council should meet at least twice in a year.

- The procedure to be observed by the state councils in regard to the transaction of business may be prescribed by the state government.

C) District Consumer Protection Council:

- The State Governments have established for every district a council known as District Consumer Protection Councils by notification, which is to be headed by the collector of the district as Chairman of the District Council¹.
- In 2002, two new sections, sections 8A and 8B have been inserted in the Act which empowered the State Governments to establish for every district a consumer protection council².
- The collector of the district concerned should be the chairman of the council³.
- The state government concerned is authorized to appoint the other members, official and non-official, keeping in view various interests which need to be represented at the council.
- Each district council is supposed to meet at least twice in a year.
- The time and venue of the meetings is to be fixed by the chairperson.
- The procedure to be followed by the district councils may be laid down by the state government⁴.
- The objects of each district council are to promote and protect the rights of consumers within the concerned district⁵.

¹Section 8A, *The Consumer Protection Act, 1986*

²Section 8A(1), *The Consumer Protection Act, 1986*

³Section 8A(2), *The Consumer Protection Act, 1986*

⁴Section 8A(2)(b), *The Consumer Protection Act, 1986*

⁵Section 8B, *The Consumer Protection Act, 1986*

OBJECTS AND FUNCTION OF CONSUMER PROTECTION COUNCILS

It is agreed that consumers are need to be protected. But the question arises- Consumers are protected against what? Therefore, the act has laid down some rights of consumers which need to be protected by the councils. Councils are supposed to perform certain functions to achieve the objective of the act.

The preamble of the Consumer Protection Act aims to provide better protection of the interests of the consumers and for that provisions are made for the establishment of Consumer Protection Councils in the second chapter of the act. The object of the Consumer Protection Councils is to protect the rights of the consumers which are listed below:

1. RIGHT TO SAFETY

It is **right to be protected against the marketing of goods and services which are hazardous to life and property.**

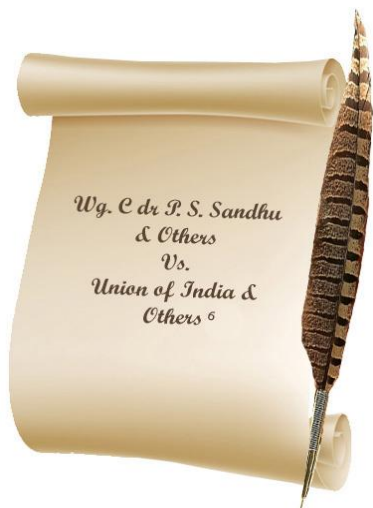
Unsafe goods may cause death or serious injury to the user due to defective ingredients, defective design, poor workmanship, or any other reason. At times safety hazards are found due to absence of proper instructions to use the product.

Thus it is to be ensured that,

- Manufacturers and traders ensure that the goods are safe for the users, in case of hazardous goods, they give **clear instructions as to mode of use, consumer is informed of the risk involved in improper use of goods, and important safety information is conveyed to consumers.**
- **Where a product is found such as is likely to be hazardous even when properly used, traders should either recall it and modify the same, or replace it with a new product, or adequately compensate for it.**

Illustration: - 'A' bought an insecticide from 'B'. 'B' did not inform 'A' that touching this insecticide with bare hands can create skin problem. 'A' while using the insecticide came in contact with it and suffered from skin problem consequently. Here 'B' can be held liable under the Act.

6



Facts

A Boat Club was maintained by Army Authorities at Barapani Lake near Shilong. The first complainant and his colleagues and their families went for boating at the Barapani Lake. 15 persons and one boatman occupied the boat. After the boat had gone a distance of 1 and a half Km from the shore, it suddenly collapsed. The boat was found to be overloaded beyond its capacity as it not only carried 16 persons but some garden chairs also.

There was only lifebuoy on the boat and no lifejackets had been provided to the passengers. The complainant's wife Mrs. Guddi Sandhu, W.g. Cdr. Kapur and his two minor daughters lost their lives.

Question of Law

Whether the Boat club can be held liable?

Held

It was held that to run a boat club without having safety equipment and personnel trained for meeting such emergency creates gross negligence and serious deficiency on the part of opposite parties. A compensation of Rs.3, 00,000 was awarded to the first complainant in addition to Rs.5, 000 as costs (case expenses) and a compensation of Rs.2, 50, 000 were awarded to the second and third complainant.



⁶III (1997) C.P.J. 18 (N.C.)

2. RIGHT TO INFORMATION

It is **right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, with a view to protect the consumer against unfair trade practices.**

Adequate information is very important in order to make a right choice for the customer. In our country, however, consumers do not generally get adequate comparative information about the quality, quantity, potency, purity, standard and price of different kinds of goods or services which are available. As a result buying decisions become difficult. Therefore consumers need to be given maximum information about the wide variety of competing goods available in the market.



⁷Facts

The complainant purchased a refrigerator from the opposite party. The back wall of the refrigerator was made of 1 mm thick aluminium foil which is usually expected to be made of steel sheet. This was not mentioned in the manual or the instruction leaflet provided to the complainant. The aluminium sheet was eaten by rats.

Question of Law

Whether providing goods which are not of particular standard and quality generally expected amounts to unfair trade practice?



Held

It was held that the opposite party adopted a deceptive practice as the goods were not of particular standard and quality generally expected and such act amounts to unfair trade practice by the opposite party. The complainant was allowed to receive refund of the cost of the fridge.

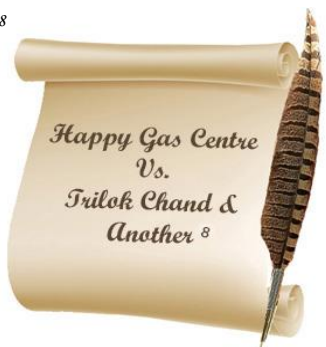
⁷III (2000) C.P.J. 389 (Uttar Pradesh S.C.D.R.C)

3. RIGHT TO CHOOSE

The right to choose can be made meaningful by ensuring **access to a variety of goods and services at competitive prices.**

Fair and effective competition must be encouraged so as to provide consumers with the widest range of products and services at the lowest cost.

⁸



Facts

The complainant was sanctioned a domestic gas connection. But the opposite party, Happy Gas Centre, Sector 35, Chandigarh, compelled the complainant to purchase a hot plate from them for providing their service.

Question of Law

Whether compelling a person to buy something without giving them any choice amounts to Deficiency in service?

Held

The District Forum held that there was a deficiency in service by the opposite party and ordered them to supply gas connection to the complainant immediately. The opposite party was also ordered to pay Rs.7, 000 as compensation to the complainant. The appeal against this order was dismissed with costs of Rs.500.



⁸III (1997) C.P.J. 589 (Chndigarh S.C.D.RC)

4. RIGHT TO REPRESENT

It is **right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums.**

Every consumer has a right to file complaint and be heard in that context before the redressal forum.

9



Facts

The appellant arranged a tour package starting from 05-11-1991 to 23-11-1991 and charged Rs.3, 795 per passenger. The complainants paid the price for themselves and their families to the appellant. The services to be offered by the appellant were travel by railway and bus to different places, breakfast, coffee, tea, etc.

A major part of the travel was from Madras to Bangalore. The complainant claimed that the bus provided for travel was in a ruined condition. On the way to Ooty, the bus stopped for 12 hours during night and it was raining heavily at that time and also no breakfast was provided to them. As per schedule, the complainants were informed of only one night travel but instead they travelled for four nights continuously without any rest. They couldn't actually enjoy any sightseeing because of the tiredness. The windows were not functioning properly and so they cannot be closed. There was water inside the bus because of the broken ceiling and floor of the bus.

10 different complaints were filed against the appellant.

⁹I (2000) C.P.J. 44 (Gujarat S.C.D.R.C)

Question of Law

Whether 10 different complaints filed with the same interest without permission of the District Forum are valid or not?

Held

It was held that there is no need to get permission of the District Forum as given in Section 12 (c) of the Act for deficiency in service to the family members, who had accompanied them in the travel and the 10 different complaints were held valid. The appellant was held liable to pay compensation for deficiency in service.



5. RIGHT TO REDRESSAL

It is a **right to seek redressal against unfair trade practices or restrictive trade practices or dishonest exploitation of consumers.**

When consumers are wronged in a market place transaction, appropriate and adequate redress must be available. The Act has ensured this right by establishing Consumer Forums and recognising restrictive and unfair trade practices as a ground to make a complaint.



¹⁰ Facts

The respondents offered a 15 gm. tin of dark tan shoe polish, with the purchase of their 40 gm. of the polish, as a free gift. But the cost of the 40 gm. polish was slightly increased to cover the cost of gift.

¹⁰II (2001) C.P.J. 44 (M.R.T.P)

Question of Law

Whether charging the consumers indirectly for a gift item amounts to unfair trade practice?



Held

Since such practice affects the interests of the consumers, it was held to be an unfair trade practice.

The respondents were ordered to discontinue such practice and stop from adopting such similar trade practice in future.

6. RIGHT TO EDUCATION

The right to consumer education is a right which ensures that **consumers are informed about the practices prevalent in the market and the remedies available to them.**

For spreading this education, media, or school curriculum, or cultural activities, etc. may be used as a medium.

It is to be noted that the Central Council's object is to ensure these rights of the consumers throughout the country while the State Councils look to ensure these rights to consumers within their territories.

MEETINGS OF THE CONSUMER PROTECTION COUNCIL

- Central Council is required to organise at least one meeting every year. In addition, it may meet as and when necessary. Time and place of the meeting is decided by the Chairman of the council.
- The State Council meet at least twice a year. In addition, it may meet as and when necessary. The council may meet at such time and place as the Chairman may think fit.
- Each district council is supposed to meet at least twice in a year. The resolutions passed by the Central Council are recommendatory in nature.

CHAPTER -3: CONSUMER DISPUTES REDRESSAL AGENCIES



The headquarters of National Consumer Disputes Redressal Commission

There are three tiers of redressal of consumer grievances – District consumer redressal forum, state commission and national commission each having its own territorial and pecuniary jurisdiction.

I. DISTRICT CONSUMER REDRESSAL FORUM

a) Composition

It shall consist of a President who is, or has been or is qualified to be a District judge and two other members of whom one shall be a woman.

b) Jurisdiction of the District forum

The District forum shall have jurisdiction to entertain complaints where the value of goods and services and the compensation claimed does not exceed Rs.20 lakhs (Sec. 11(1))

A complainant must file a complaint before the district forum if the cause of action, wholly or in part arises in the jurisdiction of the forum, (or)

The opposite party resides in the jurisdiction of the forum at the time of institution of complaint. (Sec 11(2))

The manner in which a complaint shall be made is given in section 12.

The procedure to be followed by the forum on admission of complaint is given in section 13.

Appeal against the orders of the forum lies with the State commission. The appeal shall be made within a period of 30days. (Sec.15)

II. STATE COMMISSION

1. Composition of the State Commission:

According to Section 16 of the Act, each State Commission shall consist of One President and two or more other members.

1.1. The President

The President shall be a person who is or has been a Judge of a High Court, appointed by the State Government. His appointment should be made in consultation with the Chief Justice of High Court.

Any order passed by the President of the State Commission individually without any consultation with any other member is contrary to section 14(2) of the Act and such order is invalid.¹

Appointment of an ad hoc or part time president is not covered under Section 9 and 10 of the Act. Rule 3 of the Bihar Consumer protection Rules, 1987 provides for appointment of a part time President of District Forum and it is held invalid.²

¹*Raj Kumar Mangla V. R.S.Singh, III (1995) C.P.J. 50 (N.C.)*

²*Social Action for Relief to the consumers V. State of Bihar, III (1995) C.P.J. 320 [Patna, H.C. (D.B.)]*

1.2. Members

In the state commission there should be not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman.

1.2.1. Qualifications of members

The members should have the following qualifications in order to be a member in the state commission for consumer disputes redressal:

- i. be not less than thirty-five years of age;
- ii. Possess a bachelor's degree from a recognized 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 percent of the members shall be among people having judicial background.

Explanation.- For the purposes of this clause, the expression "persons having 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.

1.2.2 Disqualifications of Members Section 16(1)

A new provision has been added to Section 16(1), by the Consumer Protection Amendment Act, 2002. According to that, a person is not qualified to be a member if he/she,

- a. has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;
- b. is insolvent; or
- c. is of unsound mind and stands so declared by a competent court;
- 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 disqualification as may be prescribed by the State Government.

1.2.3. Selection committee for appointment of members

Every appointment under sub-section (1) of Section 16 shall be made by the State Government on the recommendation of a Selection Committee consisting of the following members, namely:

- i. President of the State Commission i.e. The Chairman;
- ii. Secretary of the Law Department of the State who will be a Member;
- iii. Secretary in charge of the Department dealing with Consumer Affairs in the State who will be a Member;

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.

1.2.4 Term of Office

As per the Section 16 (3), every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven 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-seven years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is made on the basis of the recommendation of the Selection Committee.

It has been provided further that a person appointed as a President of the State Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1) of this section.

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 1(A) in place of the person who has resigned.

2. Jurisdiction of the State Commission

Subject to the other provisions of this Act, the State Commission shall have jurisdiction as follows.

2.1. Pecuniary Jurisdiction

Complaints where the value of the goods or services and compensation, if any, claimed **exceeds rupees twenty lakhs but does not exceed rupees one crore**, then it comes under the pecuniary jurisdiction of State Commission. It may be noted that prior to amendment the pecuniary jurisdiction of state commission was up to 20 lakhs.



³Facts

The complainant filed a complaint before the state commission regarding deficiency in service in not making payment of claim in respect of med-claim policy. The compensation claimed was 20 lakhs plus costs of proceedings.

Question of law

Whether cost of the proceedings should be included in compensation while determining pecuniary jurisdiction?



Held

It was held that the claim of Rs.20 lakhs was within the pecuniary jurisdiction of the state commission and **the claim for costs of the proceedings were not to be included for determining pecuniary jurisdiction.**

By the **Consumer Protection (Amendment) Act, 2002**, the **jurisdiction of the State Commission has been increased to Rs. 1 Crore**. The change is likely to be beneficial to the consumer. It will reduce the number of complaints to the National Commission.

³II (2000) C.P.J. 254 (Madhya Pradesh S.C.D.R.C.)



⁴Facts

The complainant suffered a loss of Rs.11, 300 and Rs.5, 000 in accordance with his own statement and claimed a compensation of Rs.5, 00, 000. It was evident that he had purposely boosted his claim in order to bring the matter within the pecuniary jurisdiction of the state commission.

Questions of law

Whether the state commission can return the complaint where the complainant has wrongfully boosted his claim?



Held

The complaint was returned by the state commission for presentation in the proper District forum with necessary correction.

2.2. Territorial Jurisdiction

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 filing of the complaint, **actually and voluntarily resides or carries on a 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 filing 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

⁴III (1996) C.P.J. (Tamil Nadu S.C.D.R.C)

- reside or carry on business or have a branch office or personally work for gain, as the case may be, agree in such filing; or
- c. the place where the **cause of action**, wholly or in part, arises.



⁵Facts

The complainant was a resident of Bathinda. The shares and dividend which were to be delivered to him at his residence at Bathinda were not delivered to him by the opposite party.

Question of Law

Whether the District Forum at Bathinda has the jurisdiction to hear his complaint?



Held

It was held that part of the cause of action had risen at Bathinda where the shares and dividend were to be delivered. Therefore the District Forum has jurisdiction to hear the complaint.

2.3. Appellate Jurisdiction

Section 15 of the Act gives the right to prefer an appeal to the state commission **within a period of thirty days from the date of order of the District Forum** by any person who has been aggrieved by the order. The time limit may be extended by the state commission on showing sufficient cause.

The person making an appeal should deposit 50% of the decreed amount or Rs.25000/- whichever is less. This requirement

⁵I (1990) C.P.J. 258 (Punjab S.C.D.R.C)

has been introduced by the Consumer Protection (Amendment) Act, 2002.



⁶ Facts

The complainant filed a case and failed to appear on the fixed date by the district forum for ex parte (with respect to or in the interests of one side only or of an interested outside party) evidence. Within 23 days of dismissal of complaint, the complainant applied for restoration of the complaint. The mentioned application was rejected on the basis that district forum could not restore the complaint.

Question of law

Whether the state commission have jurisdiction to set aside the order of the district forum?



Held

Delhi state commission, while exercising appellate jurisdiction, set aside the order of the district forum dismissing the said application for restoring the complaint.

3. Transfer of cases

As per Section 17 A which was also inserted by the Consumer Protection (Amendment) Act, 2002. This section enables the State Commission to transfer a Case from one District Forum to another within the state. On the application of a complaint 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.

⁶III (1995) C.P.J. 510 (Delhi S.C.D.R.C)

4. Circuit Benches

As per Section 17 B which is a new provision inserted in the Act by the Consumer Protection (Amendment) Act, 2002 it provides for establishment of Circuit Benches of State Commission. 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.

5. Expeditious hearing of appeal (Section 19 A)

A new section, 19A, has been inserted by the consumer protection (Amendment) Act, 2002. It provides that attempt shall be made to dispose of appeals filed before the State Commission or the National Commission **within ninety days from the date of admission**. It provided for **speedy hearing of appeal, quicker decision and restriction of adjournment**.

III. NATIONAL COMMISSION

A) Composition

It is headed by a President who is or has been a judge of the Supreme Court.

- B) It shall have not less than four members of whom one shall be a woman.
- C) Not more than 50% of the members shall be from amongst person having judicial background.
- D) The qualification of members is given in section 20 of the act.

According to Section 21 of the Consumer Protection Act, 1986, the National Commission has jurisdiction in the following matters:



- (i) When the value of the claim by the complainant is more than Rs. 1 crore.
- (ii) When there is an appeal against the order of the State Commission; and
- (iii) When the case is pending before the State Commission for a long period, then the National Commission can take up that case and decide it.
- (iv) When the National Commission feels that the case is decided wrongly by the State Commission, then it can take up that case and decide it.

POWERS OF AND PROCEDURE APPLICABLE TO NATIONAL COMMISSION

According to Section 22 of the Consumer Protection Act, 1986, in the disposal of any complaint the National Commission has following powers:

- (i) It has all powers whichever the civil court has; and
- (ii) It also has powers to order the opposite party to do any one or more things as specified in clauses (a) to (i) section 14 of Consumer Protection Act, 1986. In these circumstances, the
- (iii) National Commission shall follow the procedures specified by the Central Government.

APPEALS FROM NATIONAL COMMISSION

When any of the party to the case is dissatisfied with the Order of the National Commission, he/she can go for an appeal to the Supreme Court within a period of 30 days from the date of order of the National Commission as per Section 23 of the Consumer Protection Act, 1986. Supreme Court has jurisdiction to consider only those appeals whichever is challenging the jurisdiction of the National Commission under Section 21 of the Consumer protection Act, 1986.

NO JURISDICTION OVER THE STATE OF JAMMU & KASHMIR

This Consumer Protection Act, 1986 does not apply to the state of Jammu & Kashmir. Jammu & Kashmir has separate Consumer Protection Laws.



⁷In the case, the Court ordered that the Consumer Protection Act, 1986 does not apply to the state of Jammu & Kashmir as they have their separate Consumer Protection laws. Also the cases from Jammu & Kashmir cannot be heard by the Supreme Court or National Commission as they have separate State Commission to solve the disputes of people belonging to that state.

Finality of order:

When any of the party is dissatisfied with the order of the District Forum or State Commission or National Commission, then they can approach the Superior Courts within the specified period as per section 23 of Consumer Protection Act, 1986 to get their dispute solved. If no appeal has been filed then the same order will be the final.



Power of the courts to recall its own order:

When the court feels that there is an error in the order given by it, then the court may recall the order and can decide it again even if the draft copy of the wrong order given is signed.

⁷ III (1997) CPJ 599 (J. & K. SCDRC, Jammu)



⁸ **Held:**

“Where the court is misled by a party or the Court itself commits a mistake which prejudices a party, the Court has the inherent power to recall its order”.



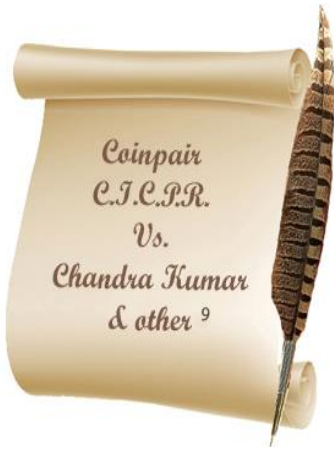
LIMITATION PERIOD FOR FILING A COMPLAINT

Section 24-A of the Consumer Protection Act, 1986 specifies a limitation period for filing a complaint. The provision is as under:

- (i) The District Forum, the State Commission or the National Commission shall not entertain any case whichever is not filed within two years from the date of cause of action. Cause of action means the facts which give a right to a person to seek judicial relief from the other person.
- (ii) In certain circumstances, the case can be heard even after the limitation period if it has a valid reason for not filing the case within the limitation period of 2 years.

Note: Before the introduction of Section 24-A of the Consumer Protection Act, 1956, the limitation period for filing the case was 3 years from the date of cause of action.

⁸ (1996) 5 SCC 550; followed in *Lalitha Enterprises v. MadduriEswari*, II (1998) CPJ 669 (Andhra Pradesh SCDR)



⁹Fact:

In this case, there was a breach of contract for construction of the building. The work was stopped on 10.04.1993 and on that date, i.e., 10.04.1993 the cause of action arose. As on that date the limitation period for filing the complaint was 3 years. By an amendment of the Consumer Protection Act, Section 24-A was introduced which came into force w.e.f.18-06-1993. The limitation period was reduced to 2 years.

Held:

It was held that the complaint filed on 06-07-1995 was within the 3 year period of limitation from the arising of the cause of action on 10-04-1993, and therefore, the same could not be considered to be time-barred, as the amended law prescribing 2 years period of limitation came into operation w.e.f.18-06-1993, i.e., much after the arising of the cause of action.



Note: Pregnancy cannot be a ground for connotation of delay.

Enforcement of Orders by the District Forum, the State Commission or the National Commission (Section 25):

Every order made by the District Forum, the State Commission or the National Commission may be enforced by the District Forum, the State Commission or the National Commission, as the case may be, in the same manner as if it were a decree or order made by a court in a suit pending, therein and it shall be lawful for

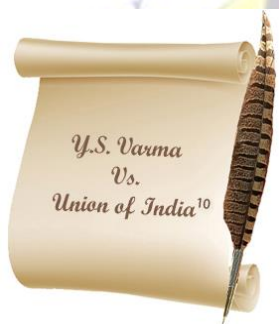
⁹ I (1998) CPJ 122 (Kerala S.C.D.R.C) Also see State Bank of India v. Sammel S. Chaudhary, I (1998) CPJ 456 (Orissa S.C.D.R.C)

the District Forum, the State Commission or the National Commission to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction, -

- a. in the case of an order against a company, the registered office of the company is situated, or
- b. in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated, and thereupon, the court to which the order is so sent, shall execute the orders as if it were a decree or order sent to it for execution.

DISMISSAL OF FRIVOLOUS OR VEXATIOUS COMPLAINTS (Sec.26)

Where a complaint instituted before the District Forum, the State Commission or, as the case may be, the National Commission is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand rupees, as may be specified in the order.



¹⁰In this case, the complainant booked a telephone under OYT Scheme by depositing Rs. 8,000/-. He filed a complaint alleging that no telephone connection was issued to him while others were given telephone connections. The allegations were found to be false and the complaint was found to be frivolous and vexatious, which resulted in harassment of the respondent. The complaint was dismissed and the complainant was ordered to pay cost of Rs. 500/- to the respondent (Opposite Party)

within One month.

PENALTIES (Sec. 27)

Where a trader or a person against whom a complaint is made or the complainant fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person or the complainant shall be punishable as under:

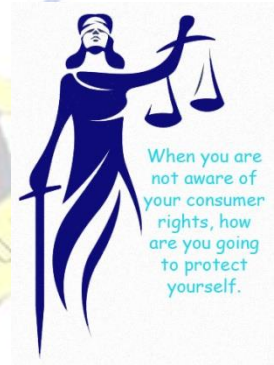
¹⁰ | (1991) CPJ 360

- (i) imprisonment for a term which shall not be less than one month but which may extend to three years, or
- (ii) fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or
- (iii) both, with imprisonment and fine as mentioned above.

If any of the above said authorities is convinced that the circumstances of the case so required, it may impose a sentence of imprisonment or fine, or both, for a term lesser than the minimum term and the amount lesser than the minimum amount, specified in this section.

NEED BEHIND THE CONSUMER PROTECTION

- Consumers are not completely aware off their rights and the remedies available to them. Therefore consumer organisations try to create awareness among the consumers and also they are given right to file case on behalf of the consumers under the Act.
- Business use resources of society. So they are morally responsible to provide quality product and services to the people of society.
- The Act also makes sure of company's responsibility by making them liable for any unfair or restrictive trade practice.
- Consumers are important to a business. If their interests are not protected, then that would discourage them from using any new products which will in turn not only affect the business but the growth and development of the society as well.
- Earlier, consumers had to approach civil court for their complaints and remedies. But now consumer forum provides easy approach, speedy and inexpensive trial to hear consumer's complaints and award them proper remedies.



Let's take an example for better understanding of why Consumer Protection Councils have been created. X an engineer by profession shifted to Mumbai. He bought a computer from Y, a dealer who gave him all guarantees and warranties. The moment he plugged in the computer, some noise came and the computer was shut down. He called up Y, but got no response from him. After making many calls to him, he understood that he was cheated of his money. X could have gone to courts, but knowing the lengthy and expensive procedures involved, he preferred not to initiate any action against Y. One day while watching television he came across a programme on consumer protection. X got interested in it and noted the address of consumer council which was sponsoring the programme. Thereafter he contacted the Council and talked about his computer affair. The Council made him aware that **there is a speedy and inexpensive way to assert his right as a consumer, and that where and how a complaint can be filed for that, and that he need not hire an advocate for the suit,** and assured him of any assistance he may need for the same.

The Consumer Councils are created to advise and assist the consumers in seeking and enforcing their rights.



NEED NOT HIRE AN ADVOCATE

The main purpose of the Act is to protect the consumers from exploitation and providing speedy remedy when the consumers were affected. **Consumer himself or any of his representative can file and represent the case in consumer forum.** There is no need to engage an advocate to file a complaint in the consumer

forum.

But the Supreme Court has given certain conditions to be followed when a non-advocate, that is an agent of the complainant, is appearing before the forum:

1. The agent should be appearing for an individual case.

2. The agent should have an already existing relationship with the complainant.
For ex: a relative, a neighbour, a business associate or a personal friend.
3. The agent should not receive any remuneration from the complainant and should give a written declaration of that.
4. The person should prove his capacity to argue the case.

If someone, who is not an advocate, wants to appear before the forum on regular basis, then they have to follow the given procedures:

1. A written examination to test the applicant's knowledge about the consumer law.
2. Verification of applicant's educational and professional background.
3. Examination of applicant's criminal record.

If the agent wants to receive any remuneration, they have to file a written request in the forum. The forum will decide the amount of fees based on the services performed by him. But **the agent cannot ask for fees more than 20% of the compensation claimed by the complainant.**

The presiding officer of the forum have power to suspend or cancel the permission given to agent or ban the agent from appearing before the forum while taking disciplinary action against the agent.

COMPENSATION

- ✓ **Forum can grant compensation which is not prayed but the same arises suddenly from the evidence and pleadings before the Forum.**

- ✓ Compensation can be claimed only for the actual loss or losses that have higher probability of happening. **All the expected profit or loss will not be compensated.**



¹¹ Facts

The complainant had issued a cheque for allotment of 300 shares which was wrongly dishonoured by the bank. He estimated a loss of Rs. 35,000 because of not receiving allotment in the company's shares and claimed the same as compensation from the opposite party.

Question of Law

Whether the complainant can claim for a loss based on an event that may or may not happen?

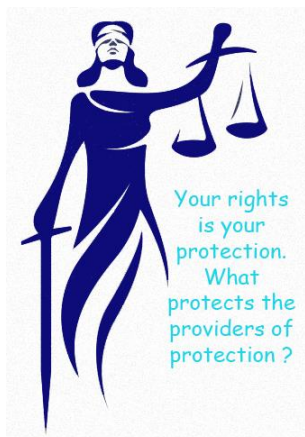


Held

It was held that there was no guarantee that 300 shares will be allotted to him by the company. Therefore, only Rs. 3,000 was awarded as compensation to the complainant.

¹¹I (1996) C.P.J. 137 (Karnataka S.C.D.R.C)

CHAPTER -4: MISCELLANEOUS PROVISIONS UNDER CONSUMER PROTECTION ACT, 1986



The Consumer Protection Act, 1986 was aimed at protection of the interest of consumers¹ and the same is to be achieved through the establishments and mechanisms provided under the Act. The Act extensively provides for Administrative and Adjudicatory bodies under the Act for the same however in the last chapter of the Act, under Section 28 it provides for protection of 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 Commission² against any legal proceedings that shall be made against them in their official capacity given that the same was made in good faith. This section assumes importance in strengthening these institutions of consumer protection enabling the authorities and the administration concerned to act towards the achievement of the objectives of the act.

India is a welfare state and as such it is essential for the country in alignment with the objectives that the nation was built to emphasize on the enactment of socio-economic legislations in the country, the Consumer Protection

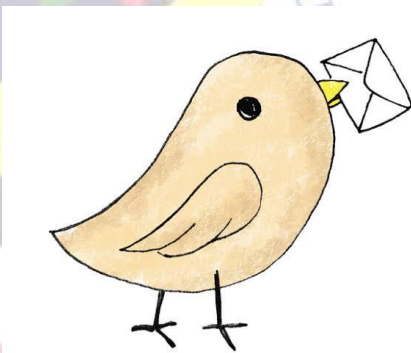
¹Preamble, The Consumer Protection Act, 1986

²Section 28 of the Consumer Protection Act, 1986

Act, 1986 being one. The presence of such a provision provides for the effective implementation of the Act and the expanse of good faith ensures that the same is examined in a Court of Law and the same is not exploited by any person in authority to the detriment of this legislation.

Furthermore, Section 28A in the Consumer Protection Act, 1986 was added by the Amendment of 1986 which provides for the service of notice under the Act. It is imperative to note here that the provision regarding notice under any social welfare legislation is of paramount importance in the actual implementation of the Act as it is integral to bring the parties to the Tribunal to ensure judicial relief to the grievances of the consumer. This particular section provides for the mechanism in which any notice is to be served under this Act.

It is hereunder provided that notice may be served by delivering or transmitting a copy of the same by registered post wherein acknowledgment is to be addressed to the 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.



³Section 28A of the Consumer Protection Act, 1986

Herein it is further provided that if a suitable acknowledgement or endorsement by a postal employee that the service of notice was refused is concluded by the District, State or National Authority, it is held that the same ought to declare that notice has been duly served. The reason behind the same is to ensure disposal of justice and that the process is not exploited to delay justice and reduce the effectiveness of the remedy and harass the parties.

It is further 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 notice⁴. This ensures that no party is in jeopardy due to circumstances beyond their control. Furthermore, it is also provided that for a notice to be considered sufficiently served it is imperative that in the case of the opposite party the notice is served to the place where business or profession is carried out by the same and is the registered or operational place therein and wherein it is made to the complainant the notice is to be served at the place where such person actually and voluntarily resides.

⁴Section 28A of the Consumer Protection Act, 1986

Under this chapter, under section 29, the Act provides for any inconsistencies or difficulties that might arise as a result of the implementation of this act and provides the remedy for the same. It is herein provided that the Central Government is empowered to by means of an order in the Official Gazette bring in such provisions that though should not be inconsistent with the provisions of this Act are essential and imperative to remedy the difficulty or inconsistency in question. It is furthermore provided that the same cannot be made passing of two years from the commencement of the Act which has already lapsed. This provision is now fulfilled through the judgments under this Act which further take care of any inconsistencies. This cap is important however because the Government is a political institution and so that the same is not exploited to the detriment of the Act.



The Consumer Protection Act is designed to ensure that the customer grievance redressal mechanism is in place and that the same is not vitiated for want of technicalities. In furtherance of the same it has been provided under Section 29A that no act or proceeding of the District Forum, the State Commission or the National Commission shall be invalidated by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof⁵. This is essential since the government and administration more often than not due to procedural and technical disabilities which are not with a purpose to vitiate the

⁵Section 29A of the Consumer Protection Act, 1986

proceedings of consumer grievance redressal and as such the same should not be made a reason to vitiate the proceedings hereunder. This is imperative since that this provision if absent would make the administrative lacunae a sustainable loophole in mitigating the effectiveness of the Act and the same should not be done in any circumstance.

This Chapter covering the miscellaneous provisions under the Act also contains the Power to make rules vested with the Central Government which is empowered to by notification make rules for carrying out the provisions contained in clause (a) of sub-section (1) of section 2 dealing with appropriate laboratory,



clause (b) of sub-section (2) of section 4 dealing with number of other official or non-official members representing such interests as may be prescribed in the Central Council, sub-section (2) of section 2 dealing with branch office, clause (vi) of sub-section (4) of section 13 dealing with other powers prescribed to district council under the Act, section 19 wherein an appeal is considered from state commission to central commission, sub-section (2) of section 20 dealing with the salary or honorarium and other allowances payable to and the other terms and conditions of service of the members of the National Commission shall be such as

may be prescribed by the Central Government and section 22 of this Act dealing with the National Commission having the powers of civil courts.

Furthermore, under the same section it has been provided that the State Government is empowered to by notification make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7 dealing with the composition and meetings of State Government, sub-section (3) of section 10 dealing with the salary or honorarium and other allowance payable to, and the other terms and conditions of service of the members of the District Forum shall be such as may be prescribed by the State Government, clause (c) of sub-section (1) of section 13 dealing with appropriate laboratory check of defect goods by the State Commission, sub-section (3) of section 14 dealing with the procedure related to meetings of the district forum, section 15 dealing with appeal from district forum to state forum and sub-section (2) of section 16 dealing with appointment of imminent members to district forum.

Upon perusal of the aforementioned provisions we find that the power has been vested with the Central and State Government to take care of the procedural nuances and hence these provisions have been selected that the administrative part runs smooth in achievement of objective of the provisions of the Act.



Lastly, Section 31 of the Consumer Protection Act, 1986 provides that no rule of the aforementioned sections has to go without being laid before the both houses of Parliament for a minimum period of thirty days wherein it has been taken care to ensure that the same may be in one or subsequent two sessions and it is required that both the Houses of Parliament agree/disagree to the proposed change in the rule under Section 30 and the same would

have effect on any consequence so passed in lieu of the same. The same is to be affected for every rule made by a State Government under this Act by the State Legislature unicameral or bicameral as it is.

It is imperative to note here that upon perusal of the above provision we find that the Government has reposed strong faith and importance to making the legislation of Consumer Protection Act a very strong and effective one and hence such a stringent check has been put in place.

THE TAMILNADU LEGAL SERVICES UNIVERSITY
CHAIR OF CONSUMER LAW AND JURISPRUDENCE

CHAPTER -5 APPLICATION OF THE ACT IN VARIOUS SECTORS

1. ELECTRICITY

- ✦ Even if electricity is used for commercial purpose, the supply of electricity will come under a consumer service.
- ✦ Premises where pending from previous. It is a general principle that no new connection can be given to a there are dues owners.



- ✦ If a consumer applies for disconnection of service, then electricity board has to disconnect the service even if there is any payment pending.
- ✦ If the supply was disconnected, after giving notice and enough opportunities for consumers to pay their overdue bills, then it does not amount to deficiency.
- ✦ If there was defective meter and the same was informed to the electricity board but the electricity board did not take any steps to replace the meter. Then it will amount to deficiency in service.
- ✦ Domestic consumers and non-domestic consumers using only single phase can terminate their connection by giving 15 days' notice.

- ⚡ If there was any defect in the meter, the arrears amount can be recovered only for a period of six months.
- ⚡ If there was a flow of high electric voltage due to the negligence of the electric board then the consumer will be compensated accordingly.

2. RAILWAYS

- ☹ Absence of adequate power supply for fans and light and non-supply of water to the passengers, not maintaining the compartment in a clean manner amounts to deficiency in service.
- ☹ The facilities provided by the railways such as clean blankets, bed sheets, etc., are considered to be service under the Act and any default in them will be considered as deficiency in service on the part of railways.
- ☹ Starting the train without blowing a whistle is a negligent act and any consumer suffered by the same can claim compensation.
- ☹ Non availability of reserved seats due to the negligent act of railway authorities such as failing to stop unauthorised persons from occupying such reserved seats is considered to be deficiency in service and the ticket amount may be refunded if a case is filed.
- ☹ If A booked ticket for B, then the person who booked the ticket (A) and the person who travelled with that ticket(B) have right to file a complaint.
- ☹ The authorised person can charge up to 25% of the fare to issue a duplicate ticket.
- ☹ Any claims against the railways relating to destruction, damage, deterioration or non-delivery of goods given to railways for carriage can be entertained only in the Railway claims Tribunal and Consumer forum has no jurisdiction in such matters.



- ☹️ If the A.C. was not working in an air-conditioned coach, then the consumers can claim compensation for deficiency in service.
- ☹️ Employees of railways will also be treated as consumers even if they travel with their employee pass and not by taking actual ticket.
- ☹️ Senior citizens should be given lower births if the ticket is booked well advance.

3. WATER

- ◆ A person paying 'water tax' can approach the consumer forum for deficiency in service if for non-supply of water.
- ◆ The water supply provided by Government will also be considered as 'service' unless it is given free of charge to all the users.
- ◆ Access to drinking water is our Fundamental Right.
- ◆ The municipality have a duty to supply hygienic and non-contaminated water.
- ◆ If there was any illegal disconnection of water supply, then the tenant can take action only against the Municipality and not against the owner under the Act.



4. RATION

The consumer forum has no jurisdiction in matters relating to ration supply since it is a statutory duty and the materials are supplied at concessional price.



5. POSTAL SERVICES

- ☒ The services of post offices are also considered as consumer services.
- ☒ Registered letters, Value payable registered letters, registered parcels, Value payable registered parcels can be insured at the post office.
- ☒ Post office cannot be held liable for failure to deliver a registered letter if it is not insured unless there is negligence on the part of post office.
- ☒ If the post office delivered a registered letter containing bank drafts wrongly, then they will be held liable for deficiency in service but they are not liable to

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pay the entire amount of the bank draft.

- ☞ If a bank draft was lost in speed post, then the post office will be held liable.
- ☞ It is the duty of the post office to inform the consumers about any limitation at the time of opening an account and in case of default, they will be held liable.
- ☞ If the quantity of the parcel was reduced while in the custody of the postal department, then they will be held liable for deficiency in service.

6. GAS SERVICE

- ⌚ The mechanic of the gas distributor must be competent, experienced and trained, if not so, the distributor must face the consequences.
- ⌚ The concept of vicarious liability is applicable here (when a servant makes a mistake, the master must also be liable for the same).
- ⌚ Defect in the manufacturing unit is made liable.



7. MEDICAL FIELD

- ❏ Patients aggrieved by any deficiency in treatment for any private or government hospitals are entitled to seek compensation under the Act, 1986.
- ❏ The true test for establishing negligence in diagnosis or in treatment in the part of the doctor is when he has been proved to be guilty of such a failure as no doctor of ordinary skill would be guilty of it acting with reasonable care.
- ❏ A doctor is not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art.
- ❏ Hospital authority is responsible for the negligence of its medical staff.
- ❏ As per the medical ethics, the information about the health of a person must not be disclosed and must be maintained secretly.
- ❏ But the rule of confidentiality is subjected to an exception that when situation demands the disclosure of the patients health in the interest of the public, specifically in order to save others from immediate and future health risks.
- ❏ A doctor being registered in one discipline is not entitled to practice in another. For example: a homoeopathy doctor practising allopathy.
- ❏ Negligent and wrong transfusion of blood is been made liable.
- ❏ Operations must be performed with consent.
- ❏ Presence of any foreign objects (scissors, watches, sponge) left negligently inside the human body amounts to deficiency in service.
- ❏ Removal of body parts (removal of uterus, penis cut off) negligently or without consent will be made liable.
- ❏ Patient is not a consumer in the case of free operation.
- ❏ Wrongful handling of patients amounts to deficiency in service.
- ❏ Doctor is liable to display the level of current knowledge in the field.
- ❏ The service charge must be reasonable.



8. AIRLINES

- ✈ If the reserved accommodation is not provided, then it amounts to deficiency in service.
- ✈ If the booking confirmed in economy class was not provided and the passenger has to spend extra amount to travel by luxury class, then the passenger can claim for the extra amount spent.
- ✈ Airlines cannot be held liable for cancellation of flight due to sudden strike by technical and engine staff.
- ✈ Security check conducted to only one passenger cannot be held as deficiency in service.
- ✈ Airlines will be held liable for cancellation of flight due to their negligence such as absence of the pilot, failure to arrange for alternative pilot.
- ✈ Persons buying tickets from booking agents are also considered as consumers.
- ✈ Passengers need not reconfirm the confirmed seats taken through the booking agents. The airlines will be held vicariously liable for the negligence of the agent.
- ✈ If a passenger having confirmed ticket was denied boarding due to overbooking, then they can claim compensation.



- ✈ If the inconvenience caused due to overbooking was compensated by airlines by arranging alternative flight and providing free accommodation for the meantime, then no action can lie against them.

- ✈ If there were justifiable reasons for the delay, then the airlines cannot be held liable for deficiency in service.
- ✈ In case of loss of ticket, there will be no refund unless the ticket is produced.

You must know

- ✈ The price of the ticket mentioned is a comprehensive one.
- ✈ Your concerned choice of food is communicated and confirmed.
- ✈ Insurance must be taken for carrying valuable goods like gold, silver etc.
- ✈ In the event of cancellation of flight, we must ascertain the causes and extent of delay from the duty manager. The time of communication of such messages and corresponding reasons must be noted.
- ✈ Keep a list of all the contents of the baggage and an estimation of cost of all the contents in case of loss of baggage and it is always safe to keep the baggage tags.
- ✈ There must always be a possession of valid visa and should not entirely leave it to the travel agent.
- ✈ In case of transiting to a third country, find out whether you require a transit visa.
- ✈ While dealing with your agents and promoters, make sure the costs that are included and not included within the package. Make sure there are no hidden costs.
- ✈ You must obtain travel and medical insurance. Disclosure of any disease for which any treatment is undertaken must be done so that the insurance company cannot easily repudiate your claim for non-disclosure of information.
- ✈ Ensure when the refund is credited within the reasonable time in case of cancellation of tickets booked via internet.
- ✈ The airport authorities are not responsible for seizing prohibited goods in your hand baggage.

9. CARRIAGE OF GOODS BY AIR

- An airport authority is under no duty or responsibility to ensure the safety of the goods.
- The responsibility for the loss of cargo lies on the cargo.
- If a complainant desired to recover damages correlated to the injury in question, he must go for a civil suit.
- Delay in carrying pathological materials booked by air and thereby the material becoming wasted for test purposes was held to be deficient services.
- Highly inflated claim for damages is not allowed.
- Consumer forum grants only reasonable compensation.
- There is no obligation to reshipe the goods on the part of the carrier unless there is special contract has been made.
- During the transit period the carrier is bound to follow the instructions of the sender of the goods
- There is a duty in the part of the carrier to inform the consignor that nobody had come to receive the goods to their destination.
- It is the duty of the carrier not to deliver the goods without the production and surrender of carriage documents which show his entitlement to the delivery.
- The duty of the carrier is to inform the receiver of goods and give reasonable time clearance. When nobody came to receive the goods, carrier was under no duty to dispose them of otherwise.


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10. INSURANCE

10.1 MEDICAL INSURANCE

- ❏ One of the most common ground given by the insurance companies for repudiating claim is that the alleged suppression of information regarding pre-existing diseases. If the disease is unknown prior to taking the policy, the insurance can be claimed.
- ❏ Age related knee pain is not pre-existing disease.

10.2 LIFE INSURANCE

- † If the payment under policy was made by cheque and the same was dispatched through post but that post was obstructed in its way and the cheque was encased by another person, then it will not be presumed as payment to policy holder.
- 
- An image showing a close-up of an insurance policy document. The word "INSURANCE" is printed in large, bold, black letters, with "POLICY" printed below it in a slightly smaller font. A gold-colored pen is resting on the document. In the bottom right corner, there is a small box labeled "Limits of liability". The document is placed on a light-colored wooden surface.
- † If the policy was cancelled on the ground that the insured has suppressed information in 'personal health statement', then it will not amount to deficiency in service.
 - † If there was a concealment of fact and the insured died in few months, then even the premium cannot be recovered since it is obtained fraudulently.
 - † If the insured was not aware of particular disease he had while taking the policy and policy became due after two years, then the insurer cannot cancel the policy.
 - † If there was any misrepresentation or concealment of fact, then it is the insurer who has to prove it.
 - † If the fact suppressed and the causes of death are two different things, then the insurance policy cannot be cancelled.

- † Since person suffering from schizophrenia is not aware of his condition and suppression of such fact cannot be held as a ground for cancellation of policy.
- † The insurer can cancel the policy after two years only if the suppression was of material fact and done fraudulently and wilfully.

NOTE: “Material” means things that might influence the whole acceptance of the policy, the rate of premium. It also includes other matters which has connection with the life expectancy of the insured.

- † In the insurance policy taken for the benefit of the employees by the employer, if the policy becomes invalid due to negligence of the employer who failed to make the payment and insurer who failed to give him notice for payment, then the employer and insurer will be held liable jointly and severally.

NOTE: “Joint and several liabilities” means the compensation required to be paid can be collected from one person or from all of them.

- † A mere preparation of policy documents does not make the policy valid.
- † The policy will be effective if the premium was deposited before the death of the insured.
- † If the terms of the accident policy states amputation of both hands as a ground for claiming relief, then the amputation of one hand due to an accident will not be covered under the policy.
- † If it is a disability insurance policy, then the disability should be total and permanent to claim relief under the policy. 40-50% disability will not be covered under the policy.
- † In a group policy, if one party dies and the remaining parties have right to equal share under Law, then payment of entire amount to only one party is not proper.
- † Agents are not authorised to receive premium payments. It should be paid directly to the insurance company. The insurance company will not be held liable for any default in payment by the agent.

10.3 AGRICULTURE INSURANCE

In Agriculture insurance policy, damage to the crop due to harmful weather conditions is also covered.

10.4 MOTOR VEHICLE INSURANCE

- ⌘ Even though there is an insurance, to claim the relief the driver should have a valid driving license and the vehicle should be registered properly.
- ⌘ The vehicle should not be overloaded at the time of accident to have a valid claim.
- ⌘ In case of expiry of license, if the renewal is made within 30 days then it is effective without any time gap. But if the renewal is made after 30 days then in the time period between the expired date and the renewal date, the driver has no proper license.
- ⌘ If the original license was a fake one, then subsequent renewal cannot validate it.
- ⌘ If a vehicle which is not insured is met with an accident, then the owner is liable to pay an amount to retake the possession of the vehicle.
- ⌘ If a vehicle was stolen on the very day it was purchased, then the market price of the vehicle will be paid by the insurer.
- ⌘ If the registration number is not made permanent within a reasonable time, then the insurer can cancel the insurance.
- ⌘ When an insurance company accepts premium, it has responsibility to inform the insured all the terms and conditions.
- ⌘ The insurance company should transfer the policy within 14 days from the date of submission of application form for transfer.





- ¶ If the transfer is not made within 14 days due to the negligence of the insurance company, then the insurer is liable to pay relief for accidents happened between the day an application was submitted and the transfer date.
- ¶ If the vehicle is given to someone in the gesture of goodwill, it will not be considered as vehicle used for hire.
- ¶ In case of death, if there is no dispute, then the insurance company should pay the compensation immediately to the family members of the deceased.
- ¶ In case of accident, the insurance company should immediately provide for cost of the treatment in the absence of any dispute.









11. HOUSING

- 🏠 Delayed construction of houses amounts to deficiency of service.
- 🏠 The determination of the final price of any flat or house would not come under the scope of the consumer protection Act, 1986.
- 🏠 Compensation must be paid for the cancellation of booking.
- 🏠 The value of compensation for purpose of pecuniary jurisdiction should be considered depending upon reliefs sought by complainant.
- 🏠 In the case of allotment of plot by a builder, the parties are bound by the terms and conditions of allotment agreement entered into by the parties.
- 🏠 Inordinate delay to construction is acceptable.
- 🏠 Often private builders and public development authorities advertise ambitious plans without prior approval of the layout plan. When the possession is not been given to the allottee within given time, deficiency of service will be considered on the part of builders and compensation must be paid.
- 🏠 Members of co-operative societies are considered as members and claim relief under consumer protection act, 1986.



-  In the case of a public auction, and the plot being allotted to the highest bidder, the grievances of the bidder cannot be considered as a consumer.
-  Landlord can also file complaint against the builder for deficiency in service, if there is no joint venture agreement between them.

You must know

-  Verify the background and past performance of the builder before engaging one.
-  Ensure that the flat/plot is free from any litigation or drawbacks.
-  Construction site must be visited regularly and documentation of photographs at regular intervals for evidence.
-  Promises as mentioned in the advertisement must be discussed clearly before entering into the contract.
-  The time factor must be clearly decided before entering into the agreement.
-  The agreement must specify Quality of construction fittings and fixtures.
-  The builder must be informed of your change in address in writing.
-  In the case of filing a complaint, it must be filed within two years of cause of action.

12. BANK

- Bank cannot be held liable for non-functioning if it is due to strike by its employees.
- Payment by bank in denomination of Rs.50 when the customer asked for payment in denomination of Rs.100 is not deficiency in service on the part of bank.
- If a bank dishonour a cheque without valid reasons, then the bank will be held liable for deficiency in service.
- Beneficiary of a demand draft is a consumer.
- The bank can exercise lien against the properties of the deceased in the hands of legal representatives of the deceased.



NOTE: “Lien” means a right to keep possession of property belonging to another person until a debt owed by that person is settled.

- Bank cannot exercise lien over stridhan for a debt owed by the deceased husband.

NOTE: “Stridhan” means property of a woman on which she has absolute ownership. For ex: Gifts she received from her parents when she was a girl, at the time of marriage or the things she received when she became a widow to help her as the women were not considered as breadwinner in olden time.

- Honouring of cheques signed by one party of an account which can be operated either by one or the other is not a deficiency in service.
- The guarantor is also considered as consumer.

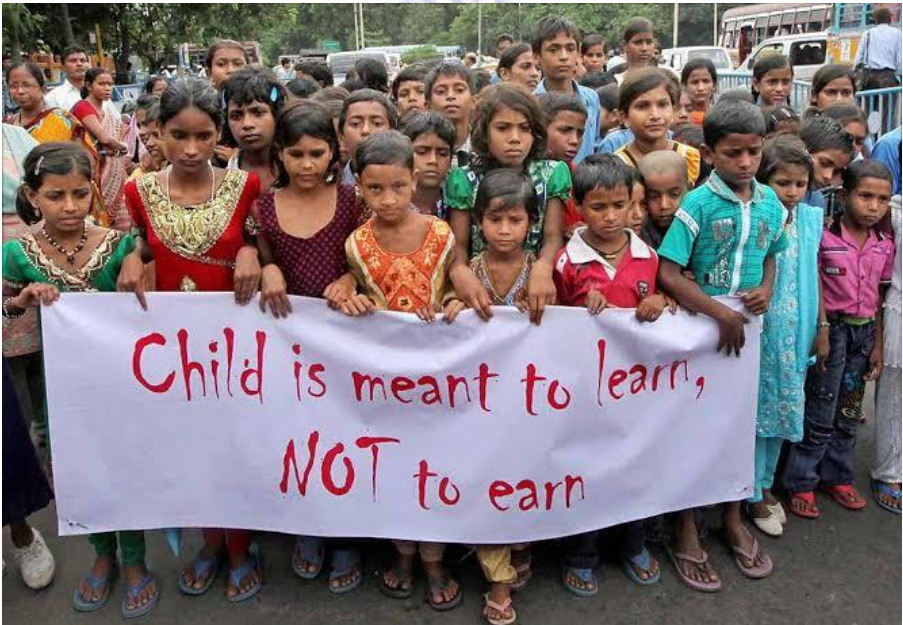
- Bank has the right to demand the loan repayment from the guarantor when the borrower makes a default. Then the guarantor can recover that amount from the borrower by filing a separate case.
- If the bank honours a cheque after receiving “stop payment instructions” from the customer, then the bank will be held liable to pay compensation for deficiency in service.
- Purchaser of demand draft cannot give stop payment instructions.
- Refusing withdrawal form on the ground that it was not submitted with pass book amounts to deficiency in service.
- If after sanctioning a loan, the bank finds that the same person has defaulted in some other loan payment, then the bank has right to cancel the sanction of the loan.
- A person applied for loan is not a consumer.
- Bank cannot take away property and sell it for non-payment of instalments without giving notice or information to the customer.
- If the property kept in the bank locker went missing due to the negligence of the bank, then the same can be filed under consumer forum and the bank will be held liable for negligence.
- Increase in the rental price of lockers is not an unfair trade practice.
- Banks do not have the right to use force, hire hooligans or gangsters on contract to recover the loan amount.
- If the bank fails to maintain CCTV camera in ATM, then it will be considered as negligence.
- If any theft happens in ATM and the negligence of the bank in not allowing withdrawal excess than the permitted limit in a day facilitated such theft, then the bank will be held liable.

You must know

- ↳ Bank has to pay interest for any delay in local cheque beyond 2 days.
- ↳ Bank has to pay interest for any delay in outstation cheque beyond 14 days.
- ↳ Interest per annum in credit card should not be higher than 30%.
Consumers should check the same in their credit card statement.
- ↳ Every account holder should check their account statement periodically make sure there is no unauthorised or fraudulent transaction in their account.
- ↳ Bank has to pay interest for any unjustifiable delay in honouring demand drafts.
- ↳ If a property is pledged as security with the bank and if any there is any default in payment, then bank will file case for repossession of vehicle and bank cannot take repossession without obtaining a decree for the same. Bank cannot repossess the property by sending recovery agents, hooligans or muscle men.
- ↳ Bank cannot escape from liability for fraud committed by its employees handling any account.
- ↳ Any communication between consumer and bank should be maintained properly for future reference and evidence.
- ↳ Account holder should inform the bank immediately in case of loss of cheque book.
- ↳ If bank encashes the cheque after receiving information about lost cheque book from the customer, then the bank will be held liable.
- ↳ Consumers should maintain a record about the contents of the locker.
- ↳ In case of any grievances, complaint can be filed with banking ombudsman.
- ↳ If not satisfied with the decision of ombudsman, then a complaint can be filed in Consumer Forum for relief.

13. EDUCATION

- ✍ Imparting education is a service.
- ✍ Students are not consumers for process of holding examination, evaluation or declaration.
- ✍ Issuance of certificates is statutory function.
- ✍ Conducting examination, evaluating papers and declaring the results is not performing any service for hire as contemplated by section 2 (1) of the Act.



- ✍ Examiner should be careful, cautious and has duty to ensure answers that they are properly evaluated, considering the fact that revaluation is not permissible.
- ✍ No element of chance or luck should be introduced.
- ✍ Examiners who make valuation of answer papers must be ensured that they are equipped for the job.
- ✍ Universal grant commission notified to all colleges and universities to retain the original documents and must refund the fee after proportionate deduction.

- ✎ Charging fees in advance beyond current semester/year amounts to unfair trade practice.
- ✎ Wrong information about the institutions through advertisement will be made liable.
- ✎ Providing errors in study materials is a deficiency in service.

You must know

- ✎ We must carefully scrutinize and understand the actual meaning behind misleading statements in advertisements of various institutions regarding its courses and promises made by those institutions so that the students are not deceived.
- ✎ All the procedures regarding the payment must be made right at the beginning.
- ✎ There must be a source of proof being followed in furnishing mark sheets or roll number or admission cards.
- ✎ Though in the first instance the oral enquires are made the concerned official about their mark sheets, it is important to follow up with a registered letter containing an acknowledgement due.
- ✎ Parents should always have an eye on their child and should keep them emotionally balanced and help them completing their task in today's competitive world.
- ✎ Student's must make an inquiry regarding the upcoming "fly-by-night" coaching centres, where they just collect money, close the shop and vanish which is not unusual in our country.
- ✎ If student discontinues mid-term or at the very beginning itself after paying the fee, the student must lead evidence regarding the defects of the institution.

CHAPTER -6: QUALITY ASSURANCE

It is not possible for a normal consumer to assess the quality of the product that is being purchased just by looking at it, or by touching and smelling it. Only when the product is being used by the consumer he/she can assess the quality of any product. So here the question arises on the minds of the Consumers on **How to choose a product with Good Quality?**

To facilitate the consumers in choosing the best product, there are certain certificates which are being issued by the Government which implies the quality of the Product. These certificates are issued on the basis of the standard of the product. **For ex: ISI, AGMARK, WOOLMARK, FPO etc.**



BIS hallmark



Agmark



ISI mark



FPO mark

The different standard certificates are issued based on the nature of the product. **For ex: Hallmark certificate is issued only for gold and not for food products.** The certificates so issued imply that the material or product is fit for its intended purposes. It is not necessary for all manufacturers to adopt Indian Standards. Any manufacturer, who wants to adopt the standards, can adopt it.

These standard certificate marks in the product implies that these product are produced according to the specific standard under a well-defined system of production. So the consumers should check if the product bears standard marks before buying the product. In India, the Bureau of Indian Standards operates a certification Marks Scheme for the use of the ISI Mark, under the provisions of BIS Act, 1986.

Below is the list of products under mandatory certification.

LIST OF PRODUCTS UNDER MANDATORY CERTIFICATION

Sr No.	IS No.	Product	For Notification Details Please click on the given link
Cement			
1.	IS 12330	Sulphate Resisting Portland Cement	Cement (Quality Control)Order, 2003 S.O. No. 191(E) Dt. 17 Feb 2003
2.	IS 12600	Low heat Portland Cement	
3.	IS 1489 (Part 1)	Portland Pozzolana Cement-Part1 Fly-ash based	
5.	IS 269	Ordinary Portland Cement	

6.	IS 3466	Masonry Cement	
7.	IS 455	Portland Slag Cement	
8.	IS 6452	High Alumina Cement for Structural use	
9.	IS 6909	Super sulphated cement	
10.	IS 8041	Rapid hardening Portland cement	
11.	IS 8042	White Portland Cement	
12.	IS 8043	Hydrophobic Portland Cement	
13.	IS 8229	Oil well Cement	
Household Electrical goods			
14.	IS 12640 (Part 1)	Residual current operated circuit breakers for house hold and	Electrical Wires, Cables, Appliances and

		<p>similar uses-Part 1 Circuit breakers without integral overcurrent protection (RCCBs)</p>	<p>Protection Devices and Accessories (Quality Control) Order, 2003</p> <p>No. 189(E) dated 17 Feb 2003</p> <p>Subsequent Amendments:</p> <p>S.O. 165(E) dated 5 Feb 2004 ,</p> <p>S.O. 1172 (E) dated 22Aug 2005 ,</p> <p>S.O. 512(E) dated 19 Feb 2009 ,</p> <p>S.O. 2058(E) dated 7Aug 2009 &</p> <p>S.O. 2604 (E) Dated 19 Oct.2010</p>
15.	IS 12640 (Part 2)	<p>Residual current operated circuit breakers for household and similar uses–Part 2 Circuit breakers with</p>	

		<p>integral overcurrent protection(RCVOs)</p>	
16.	IS 13010	AC watt-hour meters, class 0.5, 1 & 2	
17.	IS 13779	AC static watt-hour meters, class 1 & 2	
18.	IS 14697	AC static transformer operated watt-hour and VAR-hour meters, class 0.2S & 0.5S	
19.	IS 15111 (Part 1 & 2)	Self Ballasted Lamps for General Lighting Services - Part 1 : Safety Requirements & Part 2 : Performance Requirements	
20.	IS 302 (Part 2/Sec 3)	Safety of household and similar electrical appliances – Electric iron	
21.	IS 302 (Part 2/Sec 201)	Safety of household and similar electrical appliances– Electric immersion water-heaters	

22.	IS 302 (Part 2/Sec 202)	Safety of household and similar electrical appliances –Electric stoves	
23.	IS 302 (Part 2/Sec 30)	Safety of household and similar electrical appliances-Room heaters	
24.	IS 3854	Switches for domestic and similar purposes	
25.	IS 418	Tungsten filament general service electric lamps (upto100 W)	
26.	IS 694	PVC insulated cables for working voltages up to and including 1100V	
27.	IS 8828 *	Electrical Accessories-Circuit breakers for overcurrent protection for household and similar installations	
28.	IS 9968 (Part 1)	Elastomer insulated cables (Part.1): For working voltages up to and including1100 V	

Batteries			
29	IS 8144	Multi-Purpose dry batteries	SO 516(E), dated 25th May 1987
Food & Related Products			
30.	IS 15757	Follow-up formula –complimentary foods	Food Safety & Standards Prohibition & Restriction on Sales, Regulation, 2011 GSR 759(E) and GS R 760(E)
31.	IS 11536	Processed cereal based complementary foods	
32.	IS 1165	Milk-powder	
33.	IS 1166	Condensed milk, partly skimmed and skimmed condensed milk	
34.	IS 12176	Sweetened ultra high temperature treated condensed milk	
35.	IS 13334 (Part 1)	Skimmed milk-powder, standard grade	
36.	IS 13334 (Part 2)	Skimmed milk-powder, extra grade	

37.	IS 13428	Packaged Natural Mineral Water	
38.	IS 14433	Infant milk substitutes	
39.	IS 14542	Partly skimmed milk powder	
40.	IS 14543	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	
41.	IS 1656	Milk-cereal based weaning foods	
42.	IS 3470	Hexane, Food grade	Solvent Extracted Oil, De-oiled Meals and Edible Flour (Control) Order, 1967 GSR 410 dated 17 March 1967

43.	IS 14625	Plastic Feeding Bottles	The Infant Milk Substitutes, Feeding Bottles and Infant Foods (regulation of production, supply and distribution), Act 1992
44.	IS 5168	Glass Feeding Bottles	
Oil Pressure Stoves			
45.	IS 10109	Oil pressure stove, offset burner type	Oil Pressure Stoves (Q.C) Order, 1997 SO 451(E) dated 16 June 1997
46.	IS 2787	Multi-burner oil pressure stoves	
47.	IS 1342	Oil pressure stoves	

Automobile Accessories			
48.	IS 13098	Automotive vehicles –Tubes for pneumatic tyres	Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009
49.	IS 15627	Automotive vehicles– Pneumatic tyres for two and three-wheeled motor vehicles	
50.	IS 15633	Automotive vehicles-Pneumatic tyres for passenger car vehicles– Diagonal and radial ply	S.O. No. 2953(E) dated 19-11-2009 Subsequent Amendments
51.	IS 15636	Automotive vehicles- Pneumatic tyres for commercial vehicles-Diagonal and radial ply	S.O. No. 1057 (E) dated 11- 05-2010 S.O. No. 2758 (E) dated 9- 11-2010
Cylinder, Valves and Regulation			
52.	IS 14899	Liquefied petroleum gas containers for	Explosive Act,

		automotive use	1884
			Gas Cylinder Rules, 2016
53.	IS 15100	Multifunction valve assembly for permanently fixed liquefied petroleum gas (LPG) containers for automotive use	G.S.R. No. 1081(E) Dt. 22-11-2016 ,
54.	IS 3196 (Part 4)	Welded low carbon steel cylinders exceeding 5 liters Water capacity for low pressure liquefiable gases Part 4 Cylinders for toxic and corrosive gases	
55.	IS 3196 (Part 1)	Welded low carbon steel gas cylinder exceeding 5 liters water capacity for low pressure liquefiable gases Part1 Cylinders for liquefied petroleum gas (LPG)	
56.	IS 3196 (Part 2)	Welded low carbon steel gas cylinder exceeding 5-litre water capacity for low pressure liquefiable gases Part 2 Cylinders for liquefiable gases other than LPG.	
57.	IS 3224	Valve fittings for compressed gas cylinder excluding liquefied petroleum gas cylinders	
58.	IS 3745	Yoke Type Valve Connection for Small Medical Gas Cylinders	

59.	IS 7142	Welded low carbon steel cylinders for low pressure liquefiable gases not exceeding 5 liter water capacity
60.	IS 7285 (Part 1)	Refillable Seamless steel gas cylinders Part 1 Normalized steel cylinders
61.	IS 7285 (Part 2)	Refillable Seamless steel gas cylinders Part 2 Quenched and tempered steel cylinders with tensile strength less than 1100 MPa (112 kgf/mm ²)
62.	IS 7302	Valve fittings for gas cylinder valves for use with breathing apparatus
63.	IS 7312	Welded and seamless steel dissolved acetylene gas cylinders
64.	IS 8737	Valve fittings for use with liquefied petroleum gas cylinders of more than 5 liters water capacity Part 2 Valve fittings for newly manufactured LPG cylinders
65.	IS 8776	Valve Fittings for Use with Liquefied Petroleum Gas (LPG) Cylinders up to and Including 5-Litre Water Capacity

66.	IS 9798	Low pressure regulators for use with liquefied petroleum gas (LPG) mixtures	
Medical Equipment			
67.	IS 3055 (Part 1)	Clinical thermometers :Part1 Solid stem type	Clinical Thermometers (Quality Control), 2001 GSR No. 843(E) dated 9 Nov. 2001
68.	IS 3055 (Part 2)	Clinical thermometers :Part 2 Enclosed scale type	
69.	IS 7620 (Part 1)	Diagnostic Medical X-Ray Equipment	Diagnostic Medical X-Ray Equipment AERB/443/39 MDX/3509/9 4,Oct. 94
Steel Products			
70.	IS 1785 (Part 1) : 1983	Plain Hard-drawn Steel Wire For Pre-stressed Concrete: Part 1 Cold Drawn Stress-relieved Wire	Steel and Steel Products

			(Quality Control) Order, 2018 S.O. 3966(E) , dated 13- 08-2018
71.	IS 1785 (Part 2) : 1983	Plain hard-drawn steel wire for pre-stressed concrete Part 2: As drawn wire	
72.	IS 6003:2 010	Indented wire for Pre-stressed concrete	
73.	IS 6006:2 014	Uncoated stress relieved strand for Pre-stressed concrete	
74.	IS 13620: 1993	Fusion bonded epoxy coated reinforcing bars	
75.	IS 14268: 1995	Uncoated Stress Relieved Low Relaxation Seven-ply Strand For Pre-stressed Concrete	
76.	IS 277:20 03	Galvanized steel sheets (plain and corrugated)	
77.	IS 2002:2	Steel plates for pressure vessels for intermediate	

	009	and high temperature service including boilers
78.	IS 2041:2 009	Steel plates for pressure vessels used at moderate and low temperature
79.	IS 2830:2 012	Carbon steel cast billet ingots ,billets, blooms and slabs for rerolling into steel for general structural purpose
80.	IS 1786:2 008	High strength deformed steel bars and wires for concrete reinforcement.
81.	IS 648:20 06	Cold rolled non-oriented electrical steel sheets and strip-fully processed type (CRNO)
82.	IS 3024:2 015	Grain oriented electrical steel sheet & strip (CRGO)
83.	IS 15391: 2003	Oriented Electrical Steel Sheet and Strip- Semi-Processed Type- Specification.
84.	IS 2062:2 011	Hot rolled medium and high tensile structural steel

85.	IS 432 : Part 1:1982	Mild Steel and Medium Tensile Steel Bars and Hard–Drawn Steel Wire for Concrete Reinforcement: Part 1 Mild steel and medium tensile steel bars
86.	IS 432 : Part 2:1982	Mild steel and Medium Tensile steel bars and Hard–Drawn Steel Wire for Concrete Reinforcement: Part 2 Hard- Drawn Steel Wire
87.	IS 513 (Part- 1): 2016	Cold reduced carbon steel sheets and strips Part 1 Cold Forming and Drawing Purpose
88.	IS 513 (Part- 2): 2016	Cold reduced carbon steel sheets and strips Part 2 High Tensile and Multi-phase Steel
89.	IS 1079: 2017	Hot Rolled Carbon Steel Sheet, Plate and Strip — Specification
90.	IS 1875:1 992	Carbon steel billets, blooms, slabs and bars for forgings
91.	IS 2879:1 998	Mild steel for metal arc welding electrodes
92.	IS 3502:2	Steel Chequered Plates

	009	
93.	IS 5872:1 990	Cold Rolled Steel Strips (Box Strappings)
94.	IS 5986: 2017	Hot Rolled Steel Sheet, Plate and Strip for Forming and Flanging Purposes - Specification
95.	IS 6240:2 008	Hot Rolled Steel Plate (up to 6 mm) Sheet and Strip for the Manufacture of Low Pressure Liquefiable Gas Cylinders
96.	IS 7283:1 992	Hot Rolled bars for production of bright bars and machined parts for engineering applications
97.	IS 7887:1 992	Mild steel wire rods for general engineering purposes
98.	IS 10748: 2004	Hot Rolled Steel Strip for Welded Tubes and Pipes
99.	IS 11513: 2017	Hot Rolled Carbon Steel Strip for Cold Rolling Purposes — Specification
100.	IS 15647:	Hot rolled steel narrow width strip for welded

	2006	tubes and pipes	
101.	IS 7904:1 995 (This standar d shall cease to exist after 18 th Nov ember, 2018) IS 7904:2 017	High carbon steel wire rods- Specification	
102.	IS 14246: 2013	Continuously pre-painted galvanized steel sheets and coils	
103.	IS 15965: 2012	Pre-painted aluminium zinc alloy metallic coated steel strip and sheet (Plain)	
104.	IS 280: 2006	Mild steel wire for General Engineering purposes	
105.	IS 1835:1 976	Round Steel wire for ropes	

106.	IS 3975:1 999	Low Carbon Galvanized steel wires formed wires and Tapes for armouring of Cables
107.	IS 4368:1 967	Alloy Steel billets, blooms and slabs for forging for general engineering purposes.
108.	IS 4454 (Part 1) : 2001	Steel wire for mechanical springs Part-1 cold drawn unalloyed steel wire.
109.	IS 4454 (Part 2): 2001	Steel wire for mechanical springs Part-2 oil hardened and tempered steel wire.
110.	IS 4824:2 006	Bead Wires for Tyres
111.	IS 11169 (Part 1): 1984	Steels for Cold Heading/Cold extrusion application Part-1 Wrought carbon and low alloy steels
112.	IS 11587: 1986	Structural Weather resistant steel.
113.	IS 15103: 2002	Fire resistant Steel- Specification

114.	IS 15914: 2011	High Tensile Strength Flat Rolled Steel Plate (Up to 6 mm), Sheet and Strip for the Manufacture of Welded Gas Cylinder.
115.	IS 15961: 2012	Hot Dip aluminium- Zinc alloy metallic coated steel strip and sheet (Plain)
116.	IS 15962: 2012	Structural Steel for Building for Structures with improved seismic Resistance
117.	IS 6527:1 995	Stainless Steel wire Rod
118.	IS 6528:1 995	Stainless Steel Wires
119.	IS 6603:2 001	Stainless Steel Bars and Flats
120.	IS 5522:2 014	Stainless Steel sheets and strips for utensils- Specification
121.	IS 6911:2 017	Stainless Steel Plate, Sheet and Strip- Specification
122.	IS	Low Nickel Austenitic Stainless Steel Sheet and

	15997: 2012	Strip For Utensils and Kitchen Applications- Specification	
123.	IS 8329:2 000	Centrifugally cast (spun) ductile iron pressure pipes for water, gas and sewage	Ductile Iron Pressure Pipes and Fittings (Quality Control) Order, 2009
124.	IS 9523:2 000	Ductile iron fittings for pressure pipes for water, gas and sewage	S.O. No. 1544(E) dated 25- 06-2009 The above order was rescinded by DIPP vide Gazette Notification No. 2681(E) dated 23 October 2009 and a fresh Notification No. 2749(E) dated 30- 10- 2009 was issued.

125.	IS 1161:2 014	Steel tubes for structural purposes	Mild Steel Tubes (excluding seamless tube & tubes according to API Specificatio n) (Quality Control) order,1978 and Amendmen t Order, 1983
126.	IS 1239 (Part 1):2014	Steel Tubes, Tubulars and Other Wrought Steel Fittings - Part 1 : Steel Tubes	
127.	IS 4270:2 001	Steel tubes used for water-wells (upto 200 mm dia)	G.S.R. No. 374(E) dated 18- 07-1978
Electrical Transformers			
128.	IS 1180 (Part 1)	Outdoor type Oil immersed Distribution Transformers up to and including 2500 kVA, 33 KV-specification Part 1 Mineral oil immersed	Electrical transformer s (Quality Control) order, 2015 S.O. 1221 (E) dated 07-05-2015
Electrical Motors			
129.	IS 12615	Energy Efficient Induction Motors-Three Phase	SO 178(E), dated 18th

		Squirrel Cage	January 2017 Date of Implementa tion 01/10/201 7
Capacitors			
130.	IS 2993	A.C. motor capacitors	
131.	IS 13340	Power Capacitors of Self-healing Type for AC Power Systems having Rated Voltage up to 650V	SO 2434(E), dated 01st August 2017
132.	IS 13585 Part 1	Shunt Power Capacitors of the Non-Self-Healing Type for AC System having a Rated Voltage up to and Including 1000V Part-1 General Performance, Testing and Rating Safety Requirements Guide for Installation and Operation	Date of Implementa tion 01/02/201 8
Chemicals & Fertilizers			
133.	IS 252:20 13	Caustic Soda –Specification	Bureau of Indian Standard (Caustic Soda) Order, 2018

(S.O No.
1468 E)
dated
03-04-2018

List of Electronics and IT Goods under ‘Compulsory Registration Scheme’ for Self Declaration of conformity

Sl. No	IS No.	Title	Product Category	
1.	IS 616	Audio, Video and Similar Electronic Apparatus - Safety Requirements	Electronic Games (Video)	<p>Electronics & Information Technology Goods (Requirements for Compulsory Registration) Order, 2012 Dated 03rd October 2012</p> <p>Notification No. S.O. 2357(E) dated 07 September 2012</p>
2.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Laptop/Notebook/Tablets	
3.	IS 616	Audio, Video and Similar Electronic Apparatus - Safety Requirements	Plasma/ LCD/LED Televisions of screen size 32" & above	
4.	IS 616	Audio, Video and Similar Electronic Apparatus - Safety Requirements	Optical Disc Players with built in amplifiers of input power 200W and above	

5.	IS 302-2-25	Safety of household and similar electrical appliances: Part 2 Particular requirements: Section 25 Microwave ovens	Microwave Ovens	Subsequent Amendments Notification No. S.O. 822(E) dated 20 March 2013 S.O. 2033(E) dated 02 July 2013 S.O. 2034(E) dated 25 June 2013
6.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Visual Display Units, Video Monitors of screen size 32" & above	
7.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Printers, Plotters	
8.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Scanners	
9.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Wireless Keyboards	
10.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Telephone Answering Machines	

11.	IS 616	Audio, Video and Similar Electronic Apparatus - Safety Requirements	Amplifiers with input power 2000W and above	
12.	IS 616	Audio, Video and Similar Electronic Apparatus - Safety Requirements	Electronic Musical Systems with input power 200W and above	
13.	IS 302-2:26	Safety of household and similar electrical appliances: Part 2 Particular requirements: Section 26 Clocks	Electronic Clocks with Mains Powers	
14.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Set Top Box	
15.	IS 13252 (Part 1)	Information Technology Equipment - Safety - General Requirements	Automatic Data Processing Machine	
16.	IS 13252 (Part 1)	Information Technology Equipment- Safety General Requirements	Power Adaptors for IT Equipment's	Electronics & Information Technology Goods (Requirement

17.	IS 616	Audio, Video and Similar Electronic Apparatus-Safety Requirements	Power Adaptors for Audio, Video & Similar Electronic Apparatus	s for Compulsory Registration) Order, 2012 Dated 13th November 2012
18.	IS 16242 (Part 1)	General and Safety Requirements for UPS	UPS/Invertors of rating $\leq 5kVA$	
19.	IS 15885 (Part 2/Sec 13)	Safety of Lamp Control gear Part 2 Particular Requirements Section 13 d.c. or a.c. Supplied Electronic Control gear for LED Modules	DC or AC Supplied Electronic Control gear for LED Modules	Notification No. S.O. 2905(E) dated 07 November 2014
20.	IS 16046	Secondary Cells and Batteries containing Alkaline or other non-acid Electrolytes-Safety Requirements for Portable sealed secondary cells, and for Batteries made from them for use in portable applications	Sealed Secondary Cells/Batteries containing Alkaline or other non-acid Electrolytes for use in portable applications	Extension Order for Implementation of Compulsory Registration Order for Select Products included in Schedule of Gazette notified on 30.11.2014
21.	IS 16102(Part 1)	Self-Ballasted LED Lamps for General Lighting Services Part 1 Safety Requirements	Self-Ballasted LED Lamps for General Lighting Services	Subsequent
22.	10322	Luminaries Part 5	Fixed General Purpose	

	(Part 5/Sec 1)	Particular Requirements Sec 1 Fixed General purpose luminaries	LED Luminaries	Amendments
23.	IS 13252 (Part 1)	Information Technology Equipment-Safety-General Requirements	Mobile Phones	Notification No. S.O. 344(E) dated 30 November 2015
24.	IS 13252 (Part 1)	Information Technology Equipment-Safety-General Requirements	Cash Registers	S.O. 2578(E) dated 07 August 2015
25.	IS 13252 (Part 1)	Information Technology Equipment-Safety-General Requirements	Point of Sale Terminals	
26.	IS 13252 (Part 1)	Information Technology Equipment-Safety-General Requirements	Copying Machines/Duplicators	
27.	IS 13252 (Part 1)	Information Technology Equipment-Safety-General Requirements	Smart Card Readers	
28.	IS 13252 (Part 1)	Information Technology Equipment-Safety-General	Mail Processing Machines/Postage Machines/Frinking Machines	

		Requirements		
29.	IS 13252 (Part 1)	Information Technology Equipment-Safety- General Requirements	Passport Reader	
30.	IS 13252 (Part 1)	Information Technology Equipment-Safety- General Requirements	Power Banks for use in portable applications	
31.	IS 16333 (Part-3)	Mobile Phone Handsets Part 3 Indian Language Support for Mobile Phone Handsets - Specific Requirements	Mobile Phones	SO No. Nil dated 24th Oct 2016 Date of Implementati on 1st July 2017
32.	IS 10322 (Part 5/Section 2): 2012	Luminaires Part 5: Particular Requirements Section 2 Recessed Luminaires	Recessed LED Luminaries	SO 2742 (E), dated 17th August 2017
33.	IS 10322 (Part 5/Section 3): 2012	Luminaires - Part 5: Particular Requirements Section 3 Luminaires for Road and Street Lighting	LED Luminaires for Road and Street lighting	
34.	IS 10322 (Part	Luminaires - Part 5: Particular	LED Flood Lights	

	5/Section 5): 2013	Requirements Section 5 Flood Lights	
35.	IS 10322 (Part 5/Section 6): 2013	Luminaires - Part 5: Particular Requirements Section 6 Hamp Lamps	LED Hand lamps
36.	IS 10322 (Part 5/Section 7): 2013	Luminaires - Part 5: Particular Requirements Section 7 Lighting Chains	LED Lighting Chains
37.	IS 10322 (Part 5/Section 8): 2013	Luminaires - Part 5: Particular Requirements Section 8 Luminaires for Emergency Lighting	LED Luminaires for Emergency Lighting
38.	IS 16242 (Part 1):2014	General and Safety Requirements for UPS	UPS/Inverters of rating $\leq 10\text{kVA}$
39.	IS 616:2010	Audio, Video and Similar Electronic Apparatus - Safety Requirements	Plasma/ LCD/LED Television of screen size up-to 32"
40.	IS 13252 (Part 1):2010	Information Technology Equipment –Safety General Requirements	Visual Display Units, Video Monitors of screen size up-to 32"

41.	IS 13252 (Part 1):2010	Information Technology Equipment –Safety General Requirements	CCTV Cameras/CCTV Recorders
42.	IS 302 (Part 1): 2008	Safety of Household and similar electrical appliances Part 1 General requirements	Adapters for household and similar electrical appliances
43.	IS 13252 (Part 1):2010	Information Technology Equipment –Safety General Requirements	USB driven Barcode readers, barcode scanners, Iris scanners, Optical fingerprint scanners
44.	IS 13252 (Part 1):2010	Information Technology Equipment –Safety General Requirements	Smart watches

List of Solar Photovoltaics, Systems, Devices and Components under Compulsory Registration Scheme

Sl. No.	IS No.	Title	Product Category	Notification
1.	IS 14286	Crystalline Silicon Terrestrial Photovoltaic (PV) modules - Design Qualification And Type Approval	Crystalline Silicon Terrestrial Photovoltaic (PV) modules (Si wafer based)	S.O. 2920(E) dated 30 August 2017 S.O. 1602 (E) dated 16 April 2018
2.	IS 16077	Thin-Film Terrestrial Photovoltaic (PV) Modules - Design	Thin-Film Terrestrial Photovoltaic (PV) Modules (a-Si, CiGs and CdTe)	S.O. No. 2183 (E) dated

		Qualification and Type Approval		30 May 2018
3.	IS/IEC 61730 (Part 1) IS/IEC 61730 (Part 2)	Photovoltaic (PV) Module Safety Qualification Part 1 Requirements for Construction Photovoltaic (PV) Module Safety Qualification Part 2 Requirements for Testing	PV Module (Si wafer and Thin film)	S.O. No. 3449 (E)dated 13 July 2018
4.	IS 16221 (Part 1) IS 16221 (Part 2)	Safety of Power Converters for use in Photovoltaic Power Systems Part 1- General Requirements Safety of Power Converters for Use in Photovoltaic Power Systems Part 2- Particular Requirements for Inverters	Power converters for use in photovoltaic power system	
5.	IS 16169	Test Procedure of Islanding Prevention Measures for Utility-Interconnected Photovoltaic Inverters	Utility –Interconnected Photovoltaic inverters	
6.	IS 16270	Secondary Cells and Batteries for Solar Photovoltaic Application General-Requirements and Methods of Test	Storage battery	

ISI Mark



ISI mark is a mark of certification for Indian industrial products which ensures that the product meets up the minimum quality standards. The ISI mark is by far the most recognized certification mark in the Indian. The name ISI is an abbreviation of Indian Standards Institute, which is the former name of the Bureau of Indian Standards.

What if there is a complaint about an ISI Marked Product?

If the consumer has any issues with regard to the quality of the ISI marked product, he/she can approach the nearest office of Bureau of Indian Standards or can register their complaints online BIS website @ www.bis.org.in . If the complaint is found to be genuine, the consumer will be provided with the replacement/repair of the product. Also, necessary actions will be taken against the manufacturer who manufactured that product.

HALLMARK

Hallmark is a mark stamped on articles of gold, silver, or platinum, certifying their standard of purity. It is a **purity certification scheme launched by BIS in the year 2000**. Many countries use Hallmark as a mark which guarantees purity or fitness of precious metals. But in India, Gold and silver are the only metals which have been brought under the purview of Hallmark.



Certain things to be considered by a consumer before buying jewelry

- Whenever you buy gold/silver jewelry make sure that the product which you buy bears a Hallmark along with purity mark in it.
- Since the price of gold/silver keeps fluctuating every day, the consumers are supposed to be aware of the current price of the product.
- Do not forget to collect cash receipt from the shop.
- Do not forget to check the weight of the jewelry.

What if you have been cheated?

If you have any issues with the jewelry you brought you can file a complaint in the nearest BIS office or on online @ www.bis.org.in . It is mandatory to produce the receipt of the product which you brought while lodging a complaint.

AGMARK

AGMARK is a mark of certification of agricultural products in India. This mark assures that the product conform to a set of standards approved by the Directorate of Marketing and inspection, which is an agency of the Government of India. This AGAMRK is legally enforced in India by the Agricultural Produce (Grading and Marking) Act, 1937.



Vegetarian and Non-Vegetarian Marks



Vegan (No Milk and Egg)



Veg. (With Milk)



Non-Veg. (Only Egg)



Non-Veg.

Compulsory grade designation has not been prescribed for any commodity as per this provision. However, certification of blended edible vegetable oils and fat spread is compulsory under Agmark as per the provision in Food Safety and Standards (Prohibition and Restriction on Sales) Regulations, 2011. There are some 205 different commodities including Pulses, Cereals, Essential Oils, Vegetable Oils, Fruits and Vegetables, and semi-processed products that have to have an **AGMARK**.

ISO MARK

ISO stands for **International Organization for Standardization**. This mark must be adopted for those products and services which are produced and supplied at International Level. This scheme is adopted for facilitating international Trade. ISO International Standards ensure that products and services are safe, reliable and of good quality. For business, they are strategic tools that reduce costs by minimizing waste and errors and increasing productivity. Some of the areas where ISO standards can be applicable are manufacturing, processing, printing, electronics, steel, banking, hospital, etc.



SILK MARK

Silk Mark is a quality assurance mark for pure silk. This scheme was launched in the year 2004. There are lots of instances where consumers are cheated by the traders with the delivery of non-silk product. This silk Mark which is presented in Pure Silk material will facilitate the consumers in identifying the pure silk. It also helps in **Generic Promotion of Natural Silk**.



What if the Silk Mark is a fake mark?

No trader can use fake silk mark. If done so, strict actions will be taken against those traders. The affected consumers can register a complaint along with the receipt of the goods purchased.

WOOL MARK

Wool mark is mark of certification which is used in textile products as an assurance that the product has crossed lots of tests and approved as it is **made up of 100% pure new wool** which is also called as **Virgin Wool**. Wool Mark is the symbol of quality and reliability. There are certain quality standards prescribed by the **International Wool Secretariat** to acquire this mark.



What is Virgin Wool?

Virgin Wool refers to wool taken from a lamb's first shearing in which the softest, finest wool of the sheep's life is obtained. However, virgin wool also refers to wool that has never been used, processed or woven, meaning this type of wool can come from an adult sheep.

HOLOGRAM

Hologram is a plastic sticker which will generally be in silver with some written texts. It will be presented in cover pages of books. This sticker implies that the particular book is published with authenticity. This will help readers as well as publishers from not being cheated by anyone.



ECO-MARK



Eco-mark is a mark which implies that the product is Environmental Friendly. It means the product being sold does the least damage to the environment. In order to make the consumers aware, this **eco-labeling scheme** of Government of India was **launched in the year 1991** for the easy identification of Eco-friendly Products available in the market. This mark is awarded to those consumer goods which meet up specific requirements to be regarded as eco-friendly product by the Government of India.

FSSAI

FSSAI stands for Food Safety and Standards Authority of India.

FSSAI Logo is not merely a mark but an obligatory requirement. It signifies a valid license for the Food Business Operators which is issued by the Food Safety and Standards Act, 2006. It also signifies that product is hygienic and approved. Every FBO in India must obtain a 14-digit Registration or a license number from FSSAI. This logo and the license number will be present in the package of the product which will be in contrast color for easy identification.



CHAPTER -7: OTHER LEGISLATIONS

There are some laws other than consumer protection Act which also protect consumer rights such as the Essential commodities Act, the Standards of weights and measures Act, the Indian penal code, the Sale of goods Act, the Indian contract Act, the Food safety and standards Act, the Competition Act, the Bureau of Indian standards Act etc.,

Important provisions of few such Acts are discussed in this chapter.

THE CONSTITUTION OF INDIA

There is no direct provision in the constitution of India regarding consumer but interpretation of many articles deals with consumer protection.

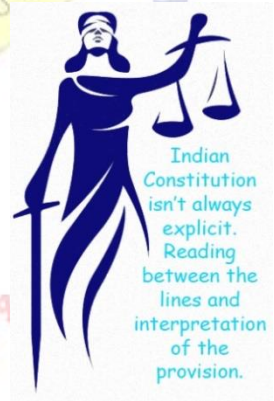
Article 19

Article 19(1) (g) gives right to all citizens to carry on any trade, business, profession, or occupation. But this right is not an absolute one. Under clause 2 to 6 of Article 19, reasonable restrictions can be imposed on such activities.

- * No one have fundamental right to carry on any business or trade which is immoral, illegal and injurious to health, safety and welfare of general public.

Ex: Intoxicating Drugs or Liquors, Adulterated food.

- * Vendors do not have the right to trade in any place at any time they want.
- * Right to trade on the pavement of road is available only when there is proper regulation and it should not cause any disturbance to others.
- * Restrictions can be imposed on places to carry on certain business, such as cinema hall, liquor shop, in the interest of the public.



- * Courts can impose restrictions on number of shows in a cinema hall to make sure that theatre is maintained and cleansed in a hygienic manner.

Article 21

Right to life under Article 21 means more than just an existence. It includes,

- Right to live with human dignity
- Right to get pollution free water and air
- Right to free legal aid
- Right to speedy trial
- Right to food
- Right to pollution free environment
- Right to health

and many others.

Article 39 A

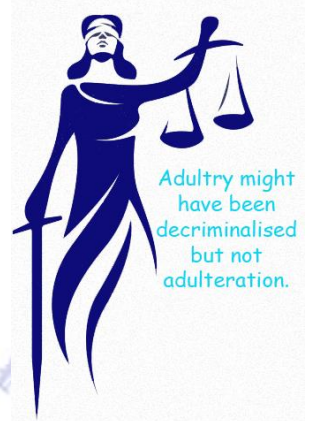
Article 39 A imposes a duty on state to provide free legal aid and speedy trial to everyone and no one should be deprived of it due to economic or other disabilities.

Article 47

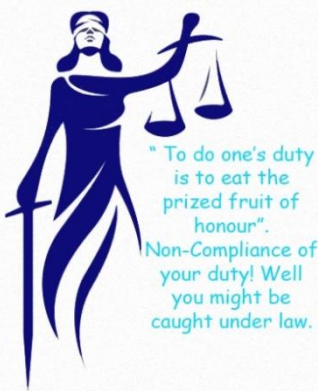
The state has a duty to increase the standard of living and public health of its people. The state can prohibit consumption of intoxicating drugs or liquors, which are injurious to health, except for medical purposes.

THE INDIAN PENAL CODE, 1860

- ✦ Any person who sells or intends to sell any adulterated food is punishable with imprisonment (max. 6 months) or fine (max. Rs.1000) or both.
- ✦ Adulteration means mixing one substance with other substance which is of inferior quality and a harmful one.
- ✦ Mere mixing of goods with harmless substance is not punishable under IPC.
Ex: Mixing milk with water.
- ✦ Any person who, with the knowledge, sells any food or drink which is poisonous or unfit to consume is punishable with imprisonment (max. 6 months) or fine (max. Rs.1000) or both.
- ✦ Adulteration and sale of adulterated drugs, used for medicinal purposes, which decreases its efficiency is punishable with imprisonment (max. 6 months) or fine (max. Rs.1000) or both.
- ✦ If any person, with knowledge, makes or sells or possesses or uses a false instrument or weight or measure for weighing a product, then such person is punishable with imprisonment (max. 1 year) or fine or both.
- ✦ The mere possession of false instrument or weight is not punishable. There should be an intention to use such false instrument fraudulently.
- ✦ Police officers have power to enter and search a place, without warrant, where there is a false instrument or weight or measure which are intended to be used fraudulently.
- ✦ It is very clear from the above points that this Act intends to punish the criminal. But Consumer Protection Act mainly deals with providing compensation for victims.



Fraud and Misrepresentation



General principles of law of contract are applied in consumer disputes. In a contract the duty is fixed by the will and consent of the parties (definite persons). In India these general principles are codified through the Indian Contract Act, 1872. The Act defines in Section 17 the concept of fraud includes suggestion as a fact, which is not true, active concealment of a fact, a wrong promise, or any unlawful act. The Section 17 does not qualify misrepresentation within the meaning of this provision. Mere negligence is not fraud where there is a good element of moral blame. These principles of contract law are applicable in consumer cases too.

The question of non-disclosure of material facts in relation to fraud arisen in some insurance cases. In *Life Insurance Corporation of India v. Narmoda Agarwalla*, the Orissa High Court examined whether the deceased was guilty of non-disclosure of facts in the policy form regarding diabetes with which the insured was suffering? The High Court held that although the statement as to diabetes was a material matter there was no evidence to conclude that there was separation of facts. It was held that the policy holder had no knowledge at the time of making the statement that it was false or that he suppressed facts which it was material to disclose. Hence, no fraud has occurred.

Unjust Enrichment and Quasi-Contract

Certain situations are analogous to the term Contract. These situations are termed quasi-contract and are defined from section 68 to 72. Thus under section 72, a person to whom money has been paid, or anything delivered, by mistake or under coercion, must repay or return it. The doctrine of quasi contract is based on the theory that no person should be allowed to be beneficiary with cost of others.

THE ESSENTIAL COMMODITIES ACT, 1955

- * The main object of this Act is to make sure that all the essential commodities are available to people at a fair price. This Act also emphasizes that there should not be any hoarding and blackmarket practice for unlawful increase in price.
- * Central and state government can regulate production, distribution, supply, storage and pricing of the essential commodities.
- * The following are some of the essential commodities:
 - Petroleum and its products,
 - Food stuffs including edible oil and seeds, Vanaspathi, pulses, rice, paddy,
 - Fertilizer, (inorganic, organic or mixed)
 - Paper, including newsprint, paper board and straw board,
 - Raw cotton and cotton seed,
 - Raw jute,
 - Seeds of food crops, fruits and vegetables,
 - Medicinal drugs,
 - Cattle fodder and its seeds
- * Central government can add or remove any commodity.
- * Since tea does not have any nutritive value, it is not an essential commodity.
- * The main purpose of public distribution system is a common man should get the commodities easily and therefore public distribution system should be one of the important modes for distributing essential commodities.



When it is your essential commodity, "The Essential Commodities Act 1955" makes sure its available to you at a fair price.

THE SALE OF GOODS ACT, 1930

- Condition is a specification which is primary to the contract of sale. Buyer can cancel the contract and claim compensation in breach of condition.
Ex: A wants to buy a horse for racing and the horse should be able to run a 60 km/hr. B sells a horse promising it satisfies the speed asked by A. Later A finds out the horse can run only 40 km/hr. It is a breach of condition and A can cancel the contract and claim compensation.
- Warranty is a specification which is secondary to the contract of sale. Buyer can only claim compensation in breach of warranty.
Ex: A wants to buy a healthy horse. B sells a horse promising it is healthy and will run 60 km/hr. Later A finds out the horse run only 45 km/hr. It is only a breach of warranty and A can claim compensation but cannot cancel the contract.
- Buyer has the option to treat any breach of condition as warranty and can claim only compensation instead of cancelling the contract.
- If the buyer already received a part of goods which cannot be separated, then buyer cannot cancel the contract even if it is breach of condition. Buyer can only claim compensation.
- If the product sold has any defect in its title itself, (i.e.) there is a question of whether the particular product belongs to the seller or not, then the buyer has right to claim refund and compensation.
- Goods sold must be in correspondence with the description of goods made by the seller.
- Caveat emptor is the general principle. But there are few exceptions to that:
 - * If the buyer fully relied on the skills and judgement of the seller to buy a product,
 - * If the buyer informs the purpose of goods and the goods sold by the seller did not satisfy the requirement of the buyer.

CAVEAT EMPTOR REPLACED BY CAVEAT VENDITOR

Caveat emptor means “**Let the buyer beware**” i.e. it is the duty of the buyer to check the quality and worthiness of a product. The buyer should know his rights. The buyer should assume all the risks connected with the product. This was the principle followed earlier.

The buyers are making their purchase in good faith and by relying in the skills and judgement of the seller. In such circumstances, putting the entire responsibility of a product on the buyer will affect the interests of the consumers. Under the principle, if any defect is found in the product after purchase, then the seller cannot be held liable because buyer was already given a chance to check the product for any defects. This protected the sellers when they failed to provide necessary information to the buyers.

Due to the above reasons a new principle known as “Caveat Venditor” was developed.

Caveat venditor means “**Let the seller beware**”

This principle made the seller responsible for providing all required information about the product to the buyer. It also made the seller accountable for providing reasonable quality of the goods i.e. the goods should be of merchantable quality. Merchantable quality means the goods should be fit for the common purpose of the buyers or if bought for a particular purpose then the goods sold should be fit for that particular purpose.



Illustration: A buys shoes from B, the shop owner. When walking down the stairs, the heel came off and A was injured because of that. B was held liable for selling goods which was not fit for the purpose.

This principle has also its limitations. If the buyer has more knowledge about a particular product than the seller, then making the seller responsible in such situation may not be fair.

Illustration: An expert and collector of art will have more knowledge about a particular painting than a person dealing in art for purely commercial purpose. In such situation making the seller responsible for any defect in goods purchased by the buyer who is very well aware of it will give undue advantage to buyers.

The main purpose of consumerism is to protect the interests of consumers which were actually not fulfilled by following the principle of “caveat emptor”. That is the main reason for developing the concept of “caveat venditor”.



UNITED NATIONS GUIDELINES FOR CONSUMER PROTECTION

The General Assembly of the United Nations passed a Resolution on April 9, 1985 adopting a set of guidelines for consumer protection to persuade the member countries to adopt policies and laws for better protection of the interests of the consumers. These guidelines provided a set of basic consumer protection objectives upon which governments have agreed, thereby serving as a policy framework for implementation at the national level.



The guidelines provided that the governments should develop or maintain a strong consumer protection policy, taking into account the guidelines. In doing so, each Government should set its own priorities for the protection of consumers in accordance with the economic, social and environmental circumstances of the country and the needs of its population, bearing in the mind the costs and benefits of proposed measures.

WHAT ARE THE MAIN OBJECTIVES?

The guidelines (as expanded in 1999) are intended to meet the following needs:

- a) Protection of consumers from hazards to their health and safety;
- b) Promotion and protection of the economic interests of consumers;
- c) Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs;
- d) Consumer education, including education on the environmental, social and economic impacts of consumer choice;
- e) Availability of effective consumer redress;
- f) Freedom to form consumer and other relevant groups or organisations and the opportunity of such organisations to present their views in decision-making processes affecting them;
- g) Promoting sustainable consumption patterns.

ARE THEY COMPULSORY?

The guidelines are widely accepted as the international benchmark for good practice in consumer protection. Although not legally binding, their strength comes from their adoption by UN General Assembly, and the consensus of international experts that led to that.

The principles and recommendations contained within the Guidelines, although not legal requirements themselves, frequently refer to specific objectives, which are linked to essential human rights enshrined in UN resolutions and declarations.

PRACTICAL TIPS FOR APPLYING THE GUIDELINES

CI recommends that government, business and civil society groups wishing to benefit from the Guidelines take the following steps:

1. **Collaborate**- communities with relevant stakeholders both nationally and internationally to share experiences and ideas.
2. **Audit**- reviews the coverage and effectiveness of existing consumer protection policies.
3. **Assess**- use the Guidelines to identify and gaps and highlight areas of improvement.
4. **Plan**- creates a plan of action with realistic timeframes that details the work needed, who will be involved and how it should be carried out.
5. **Take actions**- governments and businesses can implement their plans, working with other stakeholders to get the best result. Civil society groups should take action by campaigning for change.

BENEFITS OF USING THESE GUIDELINES

Applying the Guidelines offers a wide range of potential advantages. Consumers benefit from better quality goods and services, and higher levels of consumer protection. For organisations, such as businesses, governments and those creating consumer protection policies, application of the guidelines can help to:

Provide valuable insight into consumer needs- help to understand the main principles behind consumer protection and how to deliver these.

Define roles and responsibilities- understand the various roles and responsibilities of government, business and other organisations;

Enhance consumer trust- meeting consumer needs can increase confidence and trust;

Save valuable time- the guidance provides an excellent checklist for the development of consumer protection policy. Why reinvent the wheel if you don't have to?

Learn from others- the Guidelines demonstrate the value of working together to share knowledge and experiences, identify common problems and find the best solution;

Boost trade- instil confidence and promote growth in national and global markets by using principles set out in international trade agreements and standards;

Ensure consistent approach- global markets are increasingly interconnected, with blurred trade boundaries. This makes it increasingly important to have harmonized solutions to common problems.

Ensure consistent approach- global markets are increasingly interconnected, with blurred trade boundaries. This makes it increasingly important to have harmonized solutions to common problems.



LEX SUPREMUS

'LAW IS SUPREME'

GLOSSARY

- **Constitutionalism:** ‘adherence to a constitutional system of government’.
- **Legislation:** ‘the process of making or enacting laws’.
- **Jurisdiction:** ‘the official power to make legal decisions and judgments’.
- **Preamble:** ‘a preliminary or preparatory statement; an introduction’.
- **Forum:** ‘a meeting or medium where ideas and views on a particular issue can be exchanged’.
- **Cess:** ‘tax or levy’.
- **Plaintiff:** ‘a person who brings a case against another in a court of law’.
- **Respondent:** ‘a party against whom a petition is filed, especially one in an appeal or a divorce case’.
- **Suit:** ‘case’.
- **Litigation:** ‘the process of taking legal action’.
- **Public interest litigation:** ‘public interest litigation means litigation for the protection of the public interest’.
- **Costs (in legal sense):** ‘the filing fees, jury fees, court reporter fees, and other expenses, excluding attorneys’ fees, incurred in the prosecution of or defense against a civil suit’.
- **Tort:** ‘civil wrong’.
- **Due diligence:** ‘steps taken by a person to avoid committing a tort or offence’.

- **Consumerism:** ‘the protection or promotion of the interests of consumers’.
- **Inter alia:** ‘among other things’.
- **Tribunal:** ‘body established to settle certain types of dispute’.
- **Moral turpitude:** ‘an act or behavior that gravely violates the sentiment or accepted standard of the community’.
- **Cause of action:** ‘a fact or facts that enable a person to bring an action against another’.
- **Decree:** ‘an official order that has the force of law’.
- **Circuit benches:** ‘a permanent bench comprises of one or more High Court judges who sit yearlong at a particular location that is different from the permanent seat of the High Court. A Circuit Bench is for territories which are far flung but do not have too many matters to justify a full-fledged permanent bench’.
- **Adjourned:** ‘to break off a legal case with the intention of resuming it later’.
- **Appellant:** ‘a person who applies to a higher court for a reversal of the decision of a lower court’.
- **Breach:** ‘an act of breaking or failing to observe a law, agreement, or code of conduct’.
- **Amendment:** ‘a minor change or addition designed to improve a text, piece of legislation, etc.’
- **Connotation:** ‘an idea or feeling which a word invokes for a person in addition to its literal or primary meaning’.
- **Frivolous:** ‘not having any serious purpose or value’.
- **Vexation:** ‘the state of being annoyed, frustrated, or worried’.

- **Miscellaneous:** ‘of items or people gathered or considered together) of various types or from different sources’.
- **Expanse:** ‘a wide continuous area of something’.
- **Tribunal:** ‘a body established to settle certain types of dispute’.
- **Endorsement:** ‘declare one’s public approval or support of’.
- **Jeopardy:** ‘danger arising from being on trial for a criminal offence’.
- **Honorarium:** ‘a payment given for professional services that are rendered nominally without charge’.
- **Lieu:** ‘instead’.
- **Negligence:** ‘failure to take proper care over something’.



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