

Consumer Protection (Amendment) Act 2001/2002

(AS PASSED BY THE RAJYA SABHA ON THE 11TH MARCH, 2002)
Bill No. XLII of 2001

Short Title and commencement.

THE CONSUMER PROTECTION (AMENDMENT) BILL, 2002
A BILL further to amend the Consumer Protection Act, 1986.

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

1.(1) This Act may be called the **Consumer Protection (Amendment) Act, 2002. Act, 2001.**

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

Amendment of section 2

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

(1) in clause (b), after sub-clause (iv), the following sub-clause shall be inserted, namely :- “(v) in case of death of a consumer, his legal heir or representative;”;

(2) in clause (c), -

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

(ii) for sub-clauses (iv) and (v), the following sub-clauses shall be substituted, namely:- “(iv) a trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint a price in excess of the price,-

- (a) fixed by or under any law for the time being in force;
- (b) displayed on the goods or any package containing such goods;
- (c) displayed on the price list exhibited by him by or under any law for the time being in force;
- (d) agreed between the parties;

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

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

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

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

(3) in clause (d), -

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

“but does not include a person who avails of such services for any commercial purposes”.

(b) for the Explanation the following Explanation shall be substituted, namely:-

Explanation - For the purposes of this clause, “commercial purpose” does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment”;

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

‘(i) “manufacturer” means a person who -

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

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

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

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

(nn) “Regulation” means the regulations made by the National Commission under this Act;

(nnn) “restrictive trade practice” means a trade practice which tends to bring about manipulation

of price or conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include –

- a. delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;
- b. any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing other goods or services,;

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

(7) after clause (o), the following clause shall be inserted, namely:- “(oo)spurious goods and services” mean such goods and services which are claimed to be genuine but they are actually not so;”

(8) in clause (r), -

(a) after sub-clause (3), the following sub-clause shall be inserted, namely:- “(3A) withholding from the participants of any scheme offering gifts, prizes or other items free of charge, on its closure the information about final results of the scheme.

Explanation.- For the purposes of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time, published, prominently in the same newspapers in which the scheme was originally advertised.”

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

“(6) manufacture of spurious goods or offering such goods for sale or adopts deceptive practices in the provision of services.”

Amendment of Section 4

3. In section 4 of the principal Act, in sub-section (1), for the words “ The Central Government may” , the words “The Central Government shall” shall be substituted.

Amendment of Section 7

4. In section 7 of the principal Act, -

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

(b) in sub-section (1), after clause (b), the following clause shall be inserted, namely:- “(c) such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.”

Insertion of new sections 8A and 8B

The District Consumer Protection Council.

Objects of the District Council

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

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

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

The Collector of the district (by whatever name called), who shall be its Chairman, and such number of other official and non-official members representing such interests as may be prescribed by the State Government.

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

(4) The District Council shall meet at such time and place within the district as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

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

Amendment of Section 10

6. In section 10 of the principal Act, -

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

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

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

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

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

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

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

(b) is an undischarged insolvent; or

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

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

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

(f) has such other disqualification as may be prescribed by the State Government,”;

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

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

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

“(2) Every member of the District Forum shall hold office for a term of five years or upto the age of sixty-five years, whichever is earlier.

Provided that a member shall be eligible for re-appointment for another term of five years or upto the age of sixty-five 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 also made on the basis of the recommendation of the Selection Committee:

Provided further that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned:

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

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

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

Amendment of Section 11

7. In section 11 of the Principal Act, in sub-section (1), for the words “does not exceed rupees five lakhs”, the words “does not exceed rupees twenty lakhs” shall be substituted.

Substitution of new section for section 12.

Manner in which complaint shall be made.

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

“12.(1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by –

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not; one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so

interested; or the Central or the State Government.

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

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

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

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

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

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

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

Amendment of Section 13

9. In section 13 of the principal Act, in sub-section(1) ,-

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

(b) in sub-section (1) -

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

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

"(a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum,";

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

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

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

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

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

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

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

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

Provided further that the District Forum shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act.

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

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

"(7) -In the event of death of a complainant who is a consumer or of the opposite party against whom the complaint has been filed, the provisions of order XXII of the first schedule to the Code of Civil Procedure, 1908 shall apply subject to the modification that every reference therein to the plaintiff and the defendant shall be construed as reference to a complainant or the opposite party, as the case may be".

Amendment of Section 14

10. In section 14 of the principal Act, -

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

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

“ Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit.”;

(b) in clause (e), for the words “remove the defects” the words “remove the defects in goods” shall be substituted;

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

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

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

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

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

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

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

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

Amendment of Section 15

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

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

Amendment of Section 16

12. In section 16 of the principal Act, -

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

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

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

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

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

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

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

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

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

(b) is an undischarged insolvent; or

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

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

controlled by the Government; or

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

(f) has such other disqualification as may be prescribed by the State Government.”.

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

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

- (i) President of the State Commission Chairman
- (ii) Secretary of the Law Department of the State..... Member
- (iii) Secretary incharge of the Department dealing with Consumer Affairs in the State.... 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.

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

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

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

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

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

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

“(3) Every member of the State Commission shall hold office for a term of five years or upto 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 upto 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:

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.

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

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

Amendment of Section 17.

13. Section 17 of the principal Act shall be re-numbered as sub-section (1) and in sub-section (1) as so re-numbered –

(i) in clause (a), in sub-clause (i), for the words “exceeds rupees five lakhs but does not exceed rupees twenty lakhs”, the words “exceeds rupees twenty lakhs but does not exceed rupees one crore”

shall be substituted;

(ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:-

“(2) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction, -

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided that in such case either the permission of the State Commission is given or the opposite parties who do not reside or carry on business or have a branch office or personally work for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arise”.

Insertion of new section 17A.

Transfer of Cases:

Circuit Benches.

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

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

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

Omission of Section 18A.

15. Section 18A of the principal Act shall be omitted.

Amendment of Section 19.

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

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

Insertion of new section after section 19.

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

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

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

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

Amendment of Section 20.

18. In section 20 of the principal Act, -

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

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

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

(ii) possess a bachelor's degree from a 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 from amongst the persons 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 officers at the district level court or any tribunal at equivalent level:

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

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

(b) is an undischarged insolvent; or

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

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

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

(f) has such other disqualification as may be prescribed by the Central Government.";

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

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

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

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

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

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

Provided that a member shall be eligible for re-appointment for another term of five years or upto the age of seventy 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:

Provided further that a person appointed as a President of the National Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1) of this section:

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

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

Amendment of Section 21.

19. In section 21 of the principal Act, in clause (a), in sub-clause (I), for the words "rupees twenty lakhs", the words "rupees one crore" shall be substituted.

Substitution of new section for section 22.

Power and procedure applicable to the National Commission.
Power to set aside ex-parte orders.

20. For section 22 of the principal Act, the following sections shall be substituted, namely :-

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

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

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

Transfer of cases
Circuit Benches
Vacancy in the Office of the President

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

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

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

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

Amendment of section 23.

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

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

Substitution of section for section 25.

Enforcement of orders of the District Forum, the State Commission or the National Commission.

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

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

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

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

Amendment of section 27.

23. In section 27 of the principal Act, -

(a) proviso shall be omitted;

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

“(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Forum or the State Commission or the National Commission, as the case may, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of

powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the Code of Criminal Procedure, 1973.

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

Insertion of new section after section 28.

Service of notice, etc.

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

“28A (1) All notices required by this Act to be served shall be served in the manner hereinafter mentioned in sub-section (2).

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

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

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

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

Amendment of section 29.

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

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

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

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

Substitution of new section for section 30.

Power to make rules.

26. for section 30 of the principal Act, the following section shall be substituted, namely:-

“30.(1) The Central Government may, by notification, make rules for carrying out the provisions contained in clause (a) of sub-section (1) of section 2, clause (b) of sub-section (2) of section 4, sub-section (2) of section 5, clause (vi) of sub-section (4) and sub-section (7) of section 13, section 19, clause (b) of sub-section (1) and sub-section (2) of section 20, sub-section (1) of section 20B, Section 22 and section 23 of this Act.

(2) The State Government may, by notification, make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7, clause (b) of sub-section (2) and sub-section (4) of section 8A, section 10, section 12, clause (c) of sub-section (1) of section 13, sub-section (1) and sub-section (3) of section 14, clause (hc) of sub-section (1) of section 14, section 15 and clause (b) of sub-section (1) and sub-section (2) of section 16 of this Act.”.

Insertion of new section after section 30

Power of the National Commission to make regulations.

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

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

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

Substitution of new section for section 31.

Rules and regulation to be laid before each House of Parliament.

28. For section 31 of the principal Act, the following section shall be substituted, namely:-

“31(1) Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

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

RAJYA SABHA

A BILL further to amend the Consumer Protection Act, 1986.

(Shri Shanta Kumar, Ministry for Consumer Affairs, Food and Public Distribution)