



CONSUMER PROTECTION ACT 2019 : JOUISSANCE TO CONSUMER

PROTECTION ACT 2019 ARE AS FOLLOW:

*By Mohd. Waris
From Indore Institute of Law*

Consumer can glee as the Consumer Protection Act, 2019 has replaced the three decade old Consumer Protection Act, 1986. The Consumer Protection Act, 1986 is an Act made with the primary motive to protect the Rights of the Consumers. It was passed by the parliament of India to protect the rights of the consumer and also to redress and resolve complaints and disputes raised by the consumer. It also protects the consumer from unfair trading practices. Consumers were cheated by the traders and producers and it's the duty of the consumer commission to check about the trading and resolve the dispute raised by the consumer. However, with the advancement of technology and the recent era of the E-Commerce and other kinds of business made on the technological field there isn't a need to protect the modern day consumer from the false trading practises made on the E Commerce platform. Basically it's Because all the hacking and other cheating practises made where other traders then due to the false delivery of goods also. The Affordability and use of the online trade practices and e-Commerce have grown up in India. Therefore, the Consumer Protection Act, 2019 has been passed as an attempt to update the Old Act by changing and amending some Acts according to the current market situation. It came into force on 20th July 2020.

SOME OF THE MAIN FEATURES OF THE CONSUMER

1. With changes in laws there has been a change made to the Forums as now with enforcement of the new Act, the District Consumer Disputes Redressal Forum has been renamed as District Consumer Disputes Redressal Commission (**DCDRC**). And the same will be followed with other consumer forums.
2. The Other Party of the plaintiff must now deposit 50% of the amount ordered by the District Commission before taking a step to make an appeal to the State Consumer Disputes Redressal Commission ('SCDRC'/'State Commission')" as opposed to the previous ceiling was of maximum of Rs. 25,000/-, which has now been done away with making it to 50%".
3. The period of limitation for making an appeal to the State Commission from an order of the District Commission has been increased from 30 days to 45 days under the Act. However to condone the delays power has also been retained.
4. The SCDRC shall now have a minimum of 1 President and 4 Members.
5. Now the President of the Commission will be selected by the state Authority.
6. The jurisdiction of the consumer commissions are as follows:
 - a. District Consumer Disputes Redressal Commission shall cover disputes upto Rs. 1 crore;
 - b. State Consumer Disputes Redressal Commission will cover from Rs. 1 crore to Rs. 10 crore; and
 - c. National Consumer Disputes Redressal Commission ('**NCDR**'/'**National Commission**') will have the authority for the dispute which are more than Rs. 10 crore.
7. The complainant now has the power and benefit to institute a complaint within the



territorial jurisdiction of the Commission where the complainant either resides or personally works.

8. The provisions in Sections 49(2) and 59(2) of the Act empower both the State Commission and National Commission to consider any terms of the contract between the consumer and the service provider/manufacturer as the case may be, which are unfair to any consumer and void. This is a better provision/power vested upon the SCDRC and the NCDRC which was not a part of the old Act.
9. There is now a provision for a second appeal to the NCDRC which has been provided for under section 51 clause (3) of the Act in the event that there is a substantial question of law involved.
10. The NCDRC, SCDRC, and the DCDRC can still exercise their powers of review which have been conferred to them under sections 40, 50 and 60 of the Act.
11. It is been provided under section 58 of the Consumer Protection Act, 2019 that the NCDRC has the power to hear appeals against orders of the Central Authority.
12. Section 69 of the Act provides the provision for condonation of delay and the period of limitation for filing a complaint is still 2 years.
13. The new Act also Covers the e-filing of the complaints and also covers the e-commerce platform.
14. Basically Section 70 of the Act contains provisions that provides the administrative control of the State Consumer Disputes Redressal Commission over the District Consumer Disputes Redressal Commission and the National over State Commission.
15. The provision under Section 74 of the Act give statutory recognition to mediation and provides a mechanism for promoting mediation as a mechanism of redressal for consumer disputes.
16. An action for any product liability may now be brought by a complainant against a product manufacturer or a service provider or a seller, as the case may be, for any harm caused to him on account of a defective product and the penalties may be upto Rs. 10 Lakhs.
17. The Act also covers the section for unfair trade like Misleading advertisement, wrong Content printed on wrapper.

THE MAJOR SECTIONS OF THE ACT ARE :

- **SECTION 28 :**

- **Establishment of District Consumer Disputes Redressal Commission –**

(1) *“The State Government shall, by notification, establish a District Consumer Disputes Redressal Commission, to be known as the District Commission, in each district of the state : Provided that the state Government may, if it deems fit, establish more than one District Commission in a district.*

(2) *Each District Commission shall consist of :*

(a) *A president; and*

(b) *Not less than two and not more than such number of members as may be prescribed, in consultation with Central Government.”*

- **SECTION 29 :**

- **Qualifications, etc. , of President and Members of District Commission.-**

“The central government, by notification, make rules to provide for the qualifications, method of recruitment, procedure for appointment, term of office, resignation and removal of the president and members of the District Commission.”

It is not necessary that a Judicial Officer may be appointed as the President of the Commission. The President of the



Commission will be selected by the State Authority.

• **SECTION 39 :**

“ Where the District Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services or any unfair trade practices, or claims for compensation under product liability are proved, it shall issue an order to the opposite party directing him to do one or more of the following, namely:—

- (a) to remove the defect pointed out by the appropriate laboratory from the goods in question;*
- (b) to replace the goods with new goods of similar description which shall be free from any defect;*
- (c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant along with such interest on such price or charges as may be decided;*
- (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party:
Provided that the District Commission shall have the power to grant punitive damages in such circumstances as it deems fit;*
- (e) to pay such amount as may be awarded by it as compensation in a product liability action under Chapter VI;*
- (f) to remove the defects in goods or deficiencies in the services in question;*
- (g) to discontinue the unfair trade practice or restrictive trade practice and not to repeat them;*
- (h) not to offer the hazardous or unsafe goods for sale;*

(i) to withdraw the hazardous goods from being offered for sale;

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

(k) 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 twenty-five per cent. of the value of such defective goods sold or service provided, as the case may be, to such consumers.”

• **SECTION 41:**
• **Appeal against order of District Commission.-**

All the Findings of Section 39 will be heard here and it should be done within 45 days. Half of the payment must be deposited to the Commission when the appealant appeals and if he/she wins, the deposited amount will be returned to them.

• **SECTION 42:**
• **Establishment of State Consumer Disputes Redressal Commission.-**

The section defines that the state shall notify and establish the State Consumer Disputes Redressal Commission, to be known as the State Commission, within the boundaries of the State.

It also describes that the state Commission shall consist of one President and there should be not less than four members and not more than what the Central prescribes.

• **SECTION 43:**
• **Qualifications of President and members of state Commission.-**

The section defines that the Central Government may make rules to provide



qualification and method of recruitment and procedure of appointment.

- **SECTION 50:**
- **Review By State Commission in Certain Cases.-**

The Section describes the power of the State Commission to Review their own findings if an appeal is made by either of the parties or by its own motion.

--

- **SECTION 67:**
- **Appeal Against Order Of National Commission.-**

Normally everywhere in Law there can be 2 appeals only but here there is three appeals and the third appeal is made at Supreme Court within the 30 Days of the order given by the National Commission.

- **SECTION 71:**
- **Enforcement of orders of District Commission, State Commission and National Commission.-**

The Section defines that every order made by a District Commission, State Commission or National Commission shall be enforced by it in the same manner as if it were a decree made by a court in Suit before it.

	Consumer protection Act, 1986	Consumer protection Act, 2019
Purview of Law	Free and Personal services are excluded from consideration of All	Free and personal services are excluded. All goods and services, including the telecom and

	goods and services.	housing construction, and all modes of online transactions (teleshopping , etc.) for consideration.
Product Liability	No Provision Claim for product liability can be made against manufacturer, service provider, and seller.	Compensation can be obtained by proving one of the several specified conditions in the Act.
Unjust Contracts	The act contains no Provision that has been defined as contracts that cause significant change in consumer rights.	The Act lists six contract terms which may be held as unfair.
Central Protection Councils (CPCs)	The provisions under the Act makes CPCs to promote and protect the rights of consumers. They are established at the	The new Act makes CPCs advisory bodies for promotion and protection of consumer rights. Establishes CPCs at the District, State



	district, state, and national level.	and National Level.		former District Judge and two members.	at least two members.
Governance	No Provision Establishes the Central Consumer Protection Authority (CCPA) to promote, protect, and enforce the rights of consumers as a class.	CCPA may issue safety notices; pass orders to recall goods, prevent unfair practices, and reimburse purchase price paid; and impose penalties for false and misleading advertisements.		State: Headed by a current or former High Court Judge and at least two members. National: Headed by a current or former Supreme Court Judge and at least four members.	State: Headed by a president and at least four members. National: Headed by a president and at least four members.
Monetary jurisdiction of Commissions	The Act made jurisdiction of commissions as for District: Up to Rs 20 lakh; State: Between Rs 20 lakh and up to Rs one crore; National: Above Rs one crore	The new Act contains jurisdictions of commissions as for District: Up to Rs one crore; State: Between Rs one crore and up to Rs 10 crore; National: above Rs 10 crore.			
			Commissioning	The Act contains provision for the Selection Committee (comprising a judicial member and other officials) that will recommend members on the Commissions.	The Act contains no provision for Selection Committee. Central Government will appoint through notification.
Structure of Commission	Structure As per the Old Act :- District: Headed by current or	Structure as per the New Act:- District: Headed by a president and	Alternate dispute Redressal	The Act contains no provision.	Mediation cells will be attached to the District,



mechanism		State, and National Commissions
Penalties	The Act contains provisions for penalties if a person does not comply with orders of the Commissions, he may face imprisonment between one month and three years or fine between Rs 2,000 to Rs 10,000, or both.	If a person does not comply with orders of the Commissions, he may face imprisonment up to three years, or a fine not less than Rs 25,000 extendable to Rs one lakh, or both.
E-Commerce	No Provisions	The Act defines direct selling, e-commerce and electronic service provider. The central government may prescribe rules for preventing unfair trade practices in e-commerce and direct selling.
