

UNIT-4

CONSUMER PROTECTION ACT, 1986

INTRODUCTION

The Consumer Protection Act was passed by the Parliament in 1986 and it came into force from 1987. Its purposes to protect consumers against defective goods, unsatisfactory services, unfair trade practices, etc. The Act provides for three-tier machinery consisting of District Forum, State Commission and National Commission. The CPA extends to the whole of India except the State of Jammu and Kashmir and applies to all goods and services unless otherwise notified by the Central Government.

DEFINITIONS

Complainant means:

1. A consumer; or
2. Any voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force; or
3. The Central Government or any State Government, who or which makes a complaint; or one or more consumers where there are numerous consumers having the same interest.

Complaint: means any allegation in writing made by a complainant that:

1. An unfair trade practice or a restricted trade practice has been adopted by any trader.
2. The goods bought by him or agreed to be bought by him suffer from one more defects.
3. The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect.
4. A trader has charged for the goods mentioned in the complaint a price excess. of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods.
5. Goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force, requiring traders to display information in regard to the contents, manner and effect of use of such goods; with a view to obtaining any relief provided by law under the CPA.

Consumer: means any person who:

1. 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 (for example hire purchase or installment sales) and includes any other user of such goods when such use is made with the approval of the buyer, but does not include a person who obtains such goods for resale or for any commercial purpose; or
2. 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 when such services are availed of with the approval of the first mentioned person.

For the purposes of this definition "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood by means of self-employment.

Consumer dispute: means dispute where the person against whom a complaint has been made, denies or disputes the allegation contained in the complaint.

Restrictive Trade Practice: means any trade practice which requires a consumer to buy, hire, or avail of any good or as the case may be, services as a condition precedent for buying, hiring or availing of any other goods or services.

Unfair Trade Practice: means unfair trade practice as defined under the Monopolies and Restrictive Trade Practices Act. The MRTP act has defined certain practices to be unfair trade practices.

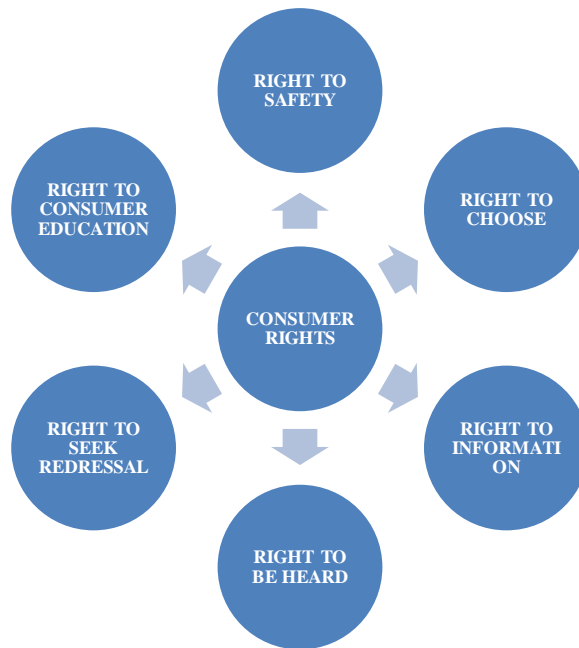
Defect: means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or as is claimed by the trade in any manner whatsoever in relation to any goods.

Deficiency: means any fault, imperfection or shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained 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. A consumer is a user of goods and services. Any person paying for goods and services, which he uses, is entitled to expect that the goods and services be of a nature and quality promised to him by the seller.

OBJECTS OF THE ACT

The act provides 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 consumer's disputes and for matters connected therewith. The basic rights of consumers as per the Consumer Protection Act (CPA) are:

1. **Right to Safety:** It is the consumer right to be protected against goods and services which is hazardous to health or life.
2. **Right to be Informed:** The consumer has the right to be informed about the quality, quantity, purity, standard and price of goods he intends to purchase. Therefore, the manufacture must mention complete information about the product, its ingredients, date of manufacture, price, precaution of use, etc. on the label and package of the product.
3. **Right to Choose:** The consumer should be assured of freedom to choose from a variety of products at competitive prices.
4. **Right to be Heard:** The consumer has right to register dissatisfaction with any product and get his complaint heard. The right to be assured that consumers' interest will receive due consideration at appropriate forums.
5. **Right to Seek Redressal:** It is the right to seek redressal against any unfair trade practices or unscrupulous exploitation of consumers.



6. **Right to Consumer Education:** It means right of acquiring knowledge and being a well-informed consumer throughout his life. He should also be made aware of his rights and the remedies available through publicity in the mass media.

CONSUMER PROTECTION COUNCILS

The interests of consumers are enforced through various authorities set up under the CPA. The CPA provides for the setting up of the Central Consumer Protection Council, the State Consumer Protection Council and the District Consumer Protection Council.

1) Central Consumer Protection Council

The Central Government has set up the Central Consumer Protection Council, which consists of the following members:

- (a) The Minister in charge of Consumer Affairs in the Central Government who is its Chairman, and
- (b) Other official and non-official members representing varied interests.

The Council meets as and when necessary but at least one meeting is held in a year.

2) State Consumer Protection Council

The State Council consists of:

- (a) The Minister in charge of Consumer Affairs in the State Government who is its Chairman, and
- (b) Other official and non-official members representing varied interests.

The State Council meets as and when necessary but not less than two meetings must be held every year.

3) District Consumer Protection Council

The District Council consists of:

- (a) The Collector of the district who is its Chairman, and
- (b) Other official and non-official members representing varied interests.

The State Council meets as and when necessary but not less than two meetings must be held every year.

CONSUMER DISPUTRE REDRESSAL MACHINERY

The CPA provides for a 3-tier approach in resolving consumer disputes. The District Forum has jurisdiction to entertain complaints where the value of goods / services complained against and the compensation claimed is less than Rs. 20 lakhs, the State Commission for claims exceeding Rs. 20 lakhs but not exceeding Rs. 1crore and the National Commission for claims exceeding Rs.1 crore.

Amount of Compensation You Seek	Court	President	Other Members
Up to Rs. 20 Lakh	District Consumer Disputes Redressal Forum	Must be qualified to be a District Judge.	Two other members; one must be a woman
Rs. 20 Lakh to Rs. 1 Crore	State Consumer Disputes Redressal Commission	Must be a person who is or has been a Judge of a High Court.	At least two other members.
Higher than Rs. 1 Crore	National Consumer Disputes Redressal Commission	Must be a person who is or has been a Judge of the Supreme Court	At least four other members.

District Forum

- Under the CPA, the State Government has to set up a District Forum in each district of the State. The government may establish more than one District Forum in a district if it deems fit. Each District Forum consists of:
 - A person who is, or who has been, or is qualified to be, a District Judge who shall be its President.
 - Two other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience of or have shown capacity in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.
- Every member of the District Forum holds office for 5 years or up to the age of 65 years, whichever is earlier.
- The District Forum can entertain complaints where the value of goods or services and the compensation, if any, claimed is less than rupees twenty lakhs. However, in addition to jurisdiction over consumer goods services valued upto Rs.20 lakhs.

State Commission

- The Act provides for the establishment of the State Consumer Disputes Redressal Commission by the State Government in the State by notification. Each State Commission shall consist of:
 - A person who is or has been a judge of a High Court appointed by State Government who shall be its President;
 - Two other members who shall be persons of ability, integrity, and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom must be a woman.
- Every member of the State Commission holds office for 5 years or upto the age of 65 years, whichever is earlier.
- The State Commission can entertain complaints where the value of goods or services and the compensation, if any, exceeds Rs. 20 lakhs but does not exceed Rs. 1crore.
- The State Commission also has the jurisdiction to entertain appeal against the orders of any District Forum within the State.

National Commission

- The Central Government provides for the establishment of the National Consumer Disputes Redressal Commission. The National Commission shall consist of:-
 - A person who is or has been a judge of the Supreme Court, to be appoint by the Central Government who shall be its President;
 - Four other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman
- Every member of the National Commission shall hold office for a term of 5 years or upto 70 years of age, whichever is earlier.
- The National Commission shall have jurisdiction:

- (a) to entertain complaints where the value of the goods or services and the compensation, if any, claimed exceeds rupees 1 crores:
- (b) to entertain appeals against the orders of any State Commission; and
- (c) to call for the records and pass appropriate orders in any consumer dispute which is pending before, or has been decided by any State Commission where it appears to the National Commission that such Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

Complaints may be filed with the District Forum by:

1. 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
2. Any recognized consumer association, whether the consumer to whom 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
3. 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
4. The Central or the State Government.

On receipt of a complaint, a copy of the complaint is to be referred to the opposite party, directing him to give his version of the case within 30 days. This period may be extended by another 15 days. If the opposite party admits the allegations contained in the complaint, the complaint will be decided on the basis of materials on the record. Where the opposite party denies or disputes the allegations or omits or fails to take any action to represent his case within the time provided,

The dispute will be settled in the following manner:

Where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, a sample of the goods shall be obtained from the complainant, sealed and authenticated in the manner prescribed for referring to the appropriate laboratory for the purpose of any analysis or test whichever may be necessary, so as to find out whether such goods suffer from any other defect. The appropriate laboratory' would be required to report its finding to the referring authority within a period of 45 days from the receipt of the reference or within such extended period as may be granted by these agencies.

Limitation period for filing of complaint:

The District Forum, the State Commission, or the National Commission shall not admit a complaint unless it is filed within 2 years from the date on which the cause of action has arisen. However, where the complainant satisfies the District Forum / State Commission, that he had sufficient cause for not filing the complaint within two years; such complaint may be entertained by it after recording the reasons for condoning the delay.

Powers of the Redressal Agencies/Remedies Granted under the Act :

The District Forum / State Commission / National Commission may pass one or more of the following orders to grant relief to the aggrieved consumer: -

1. To remove the defects pointed out by the appropriate laboratory from goods in question;
2. To replace the goods with new goods of similar description, which shall be free from any defect;
3. To return to the complainant the price, or, as the case may be, the charges paid by the complainant;
4. 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 negligence of the opposite party;
5. To remove the defects or deficiencies in the services in question;
6. To discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;
7. Not to offer the hazardous goods for sale;
8. To withdraw the hazardous goods from being offered for sale;
9. To provide for adequate costs to parties.

Appeals :

Any person aggrieved by an order made by the District Forum may prefer an appeal to the State Commission in the prescribed form and manner. Similarly, any person aggrieved by any original order of the State Commission may prefer an appeal to the National Commission in the prescribed form and manner. Any person aggrieved by any original order of the National Commission may prefer an appeal to the Supreme Court.

All such appeals are to be made within 30 days from the date of the order provided that the concerned Appellate authority may entertain an appeal after the said period of thirty days if it is satisfied that there was sufficient cause for not filling it within that period. The period of 30 days is to be computed from the date of receipt of the order by the appellant.

Where no appeal has been preferred against any of the orders of the authorities, such orders would be final.

Penalties :

If any trader fails or omits to comply with any order of the Commission, shall be punishable with imprisonment for a term which shall not be less than 1 month but which may extend to 3 years, or with fine of not less than Rs. 2,000 but which may to Rs. 10,000 or with both.