UNIT 6 CONSUMER PROTECTION ACT, 1986

UNIT STRUCTURE

6.1 Learning Objectives

6.2 Introduction

6.3 Definitions under the Act

6.4 Redressal Agencies under the Act

6.5 Powers of Redressal Agencies

6.6 Procedure of Filing a Complaint

6.7 Consumer Protection Councils

6.8 Penalties under the Act

6.9 Let Us Sum Up

6.10 Further Readings

6.11 Answers To Check Your Progress

6.12 Model Questions

6.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- discuss the various terms used in the Act
- discuss about the consumer disputes redressal agencies and their powers
- explain the procedure of filing a complaint with consumer disputes redressal agencies
- describe the objectives of establishing consumer protection councils
- explain the provisions of penalties under the Act

6.2 INTRODUCTION

In business, consumers occupy a very important place. The producers produce goods on the basis of tastes, likings, preferences etc. of the consumers. Consumer is the central point around which business activities revolves. Inspite of great importance of consumers they may be the vic-

tims of immoral businessmen. An important aspect is that there is lack of knowledge on the part of consumers and they are not organized as opposed to the sellers who are well informed and organized. To protect the consumers from unscrupulous businessmen and to provide easy remedy for their complaints, the Consumer Protection Act was passed in the year 1986. The Act extends to the whole of India except the State of Jammu and Kashmir. After completion of this unit you will be able to understand some important definitions under this Act as well as the various provisions under which consumers are given wide legal power to resolve their complaints. We will also discuss the various consumer forums created under this Act as redressal agencies for consumer grievances along with the procedure of filing a complaint in consumer forums, consumer protection councils, penalties for not complying with the orders of forums etc.

6.3 DEFINITIONS UNDER THE ACT

The Act has been passed to protect the interests of consumers and to establish the consumer councils and other authorities to settle the consumers' disputes and other related matters. Before discussing the provisions of this Act, it is better to have an idea about the different terms used in this Act like, consumer, consumer dispute etc. In this section, we will discuss some of the definitions as given by this Act which is essential to interpret the provisions of the Act. Let us begin with the definition of 'consumer'.

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. It also includes*
   a) *User of such goods who is using the goods with permission of the buyer or*
   b) *Person who has obtained goods under any system of deferred payment. Person who has obtained goods for resale or for commercial purposes is not covered under this section.*

ii. Hires or avails any services for a consideration, which has been paid or promised or partly paid and partly promised. It also includes

a) Beneficiary of services who has availed the services with approval of the person who has hired the services

b) A person who has hired or availed services under any system of deferred payment.

An important aspect of this definition is that those persons who buy goods for commercial purposes are not considered as 'consumer' under this Act. But if a person buys goods for self- employment that will not be treated as commercial purpose and therefore, that person will be considered as 'consumer' under this Act. Therefore, a 'consumer' under this Act will include person-

- who buys any goods for personal use or avails services for consideration;
- who uses such goods or services with the permission of the buyer;
- who obtains goods or avail services on deferred payment basis;
- who obtains goods for self- employment.

Consumer Dispute

According to Section 2 (1)(e) of the Act, 'Consumer Dispute' *means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint.*

If the person agrees to the complaint, there is no consumer dispute.

Complainant

According to Section 2 (1) (b) complainant means

i. a consumer; or

ii. any voluntary consumer association registered under the Companies Act or under any other law for the time being in force; or

iii. *the Central Government or any State Government, who or which makes a complaint*

iv. *one or more consumers, where there are numerous consumers having the same interest.*

v. *In case of death of a consumer, his legal heirs or representative, who or which makes a complaint.*

From the definition of 'complainant' it is clear that an individual consumer as well as consumer associations can make a complaint.

Defect

According to section 2 (1) (f) of the Act, '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 trader in any manner whatsoever in relation to any goods.*

Deficiency

According to section 2 (1) (g) of the Act, 'deficiency' means *any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard that 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.*

Services

Section 2 (d) of the Act defines 'services' as

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

Goods

'Goods' under this Act has the same meaning as per the Sale of Goods Act, 1930, which we have discussed in unit 14 (Sale of Goods Act, 1930).



CHECK YOUR PROGRESS

1) State whether the following statements are true or false-

   i. A person who uses the goods with the permission of the buyer is not a consumer as per The Consumer Protection Act.

   ii. A person who buys goods for commercial purpose is a consumer as per The Consumer Protection Act.

   iii. A voluntary consumer association can not file a complaint.

   iv. Consumer disputes can not arise in case of goods obtained or services availed on deferred payment basis.

6.4 REDRESSAL AGENCIES UNDER THE ACT

In the above section, you have come across certain definitions of the Act. It has already been mentioned that this particular Act has been passed to protect the consumers and for that purpose certain agencies will be established under the Act. In this section, we will discuss these agencies.

The Act provides for the establishment of three consumer forums at three levels i.e.

- District Forum at district level
- State Consumer Disputes Redressal Commission at state level
- National Commission at the national level.

Let us first discuss district forum-

- **District Forum**

A District Forum will be established in each district and the responsibility of establishing district forums lies with the respective State Governments.

Jurisdiction of District Forum

Jurisdiction: The legal power to apply the law.

Jurisdiction: The legal power to apply the law.

The district forum has jurisdiction to decide consumer disputes where the value of goods and services and the compensation claimed does not exceed Rs. 20 lakhs.

Composition of District Forum

According to the provisions the Act, each district forum shall consist of –

- a President, who has been or is qualified to be a district judge; and
- two other members, one of whom must be a woman. The members shall be of not less than 35 years of age ; possess a bachelor degree from a recognized university and persons of ability, integrity and standing having knowledge or experience of problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

The salary and other terms and conditions of the job of the members are prescribed by the State Government.

Tenure of the members

All the members of district forum shall be in office for 5 years or up to the age of 65 years, whichever is earlier. Any member can resign his office by addressing the letter to State Government.

- **State Consumer Disputes Redressal Commission**

The State Consumer Disputes Redressal Commission or State Commission is established by the State Governments in the respective states by notification [section 9(b)].

Jurisdiction of State Commission

The State Commission has original jurisdiction to decide consumer disputes where the value of goods and services and the compensation claimed exceed Rs. 20 lakhs but does not exceed Rs. 1 crore.

The Commission has appellate jurisdiction against the orders of the district forums within the state.

Revisional jurisdiction empowers the Commission to call for records and pass appropriate orders in any consumer dispute that is pending or has been decided by district forum, if the State Commission is of the view that

district forum is exercising jurisdiction not vested in it or not exercising the jurisdiction.

Composition of the State Commission

According to the provisions of the Act, each State Commission shall consist of –

- a President, who has been or is qualified to be a judge of High Court; and
- two other members, one of whom must be a woman [section 10(1)]. The members shall be persons of ability, integrity and standing having knowledge or experience of problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

The salary and other terms and conditions of the job of the members are prescribed by the State Government.

Tenure of the members

All the members of State Commission shall be in office for 5 years or up to the age of 67 years, whichever is earlier. Any member can resign his office by addressing the letter to the State Government [section 16(3)].

- **National Commission**

The Central Government has established a National Commission at national level to redress consumer disputes [section 9(c)].

Jurisdiction of National Commission

The National Commission has original jurisdiction to decide consumer disputes where the value of goods and services and the compensation claimed exceed Rs. 1 crore.

The National Commission has appellate jurisdiction against the original orders of any State Commission.

The National Commission has revisional jurisdiction to call for records and pass appropriate orders in any consumer dispute that is pending or has been decided by any State Commission, if the National Commission is of the view that the State Commission is exercising jurisdiction not vested in it or not exercising the jurisdiction.

Composition of the National Commission

According to the provisions the Act, the National Commission shall consist of –

- a President, who has been or is qualified to be a judge of Supreme Court; and
- four other members, one of whom must be a woman. The members shall be not less than 35 years of age, posses a bachelor's degree from a recognized university and persons of ability, integrity and standing having knowledge or experience of problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. Provided that not more than fifty percent of the member shall be from amongst the persons having a judicial background (section 20).

The salary and other terms and conditions of the job of the members are prescribed by the Central Government.

Tenure of the members

All the members of the National Commission shall be in office for 5 years or up to the age of 70 years, whichever is earlier [section 20(2)]. Any member can resign his office by addressing the letter to the Central Government. Appeal against original orders of National Commission can be made with Supreme Court.



CHECK YOUR PROGRESS

2) State whether the following statements are true or false-

i. A member of National Commission can hold office for a period of 5 years or up to the age of 60, whichever is earlier.

ii. District Forums are established by State Government.

iii. State Commissions are established by Central Government.

iv. National Commission is composed of one president and three members.

v. District Forums can decide consumer disputes where the value of goods and services and compensation claimed does not exceed Rs.1 crore.

6.5 POWERS OF REDRESSAL AGENCIES

Let us discuss the powers of the redressal agencies under the Act. You are aware that District Forum, State Commission and National Commission are the consumer disputes redressal agencies under the Act.

- These redressal agencies have the powers of civil court like,
  - summoning and enforcing attendance of witnesses and examining the witness on oath;
  - discovery and production of any document or other material as evidence;
  - receiving evidence on affidavits;
  - requisitioning report of test or analysis from concerned laboratory;
  - issuing commission for examination of witnesses;
  - any other matter that may be prescribed by Central or State Government by rules.
- The redressal agencies have the power to require a person to produce before them books of account, documents or commodities.
- The agencies can authorize a person to seize books of account, documents or commodities required for purposes of the Act.
- The agencies have no power to declare any statutory order as illegal.

6.6 PROCEDURE OF FILING A COMPLAINT

In this section, we will go through the procedure of filing a complaint in the consumer forums. A complaint can be filed by a complainant. We have already come across the definition of 'complainant' under the Act in our section 15.3. The complainant can file the complaint within two years

from the date on which the cause of the dispute arose. However, the consumer forums i.e. District Forum, State Commission or National Commission can accept any complaint even after such period, if sufficient cause exists for such delay.

On receipt of a complaint, the District Forum/ State Commission/ National Commission sent a copy of the complaint to the opposite party. The opposite party is asked to give his reply within 30 days, which can further be extended by another 15 days.

If the nature of defect in goods is such that it can not be properly determined without laboratory testing, the redressal agency will sent the defected goods to the appropriate laboratory.

Aggrieved Party: The person whose personal or property rights have been adversely affected by a court judgement.

If no laboratory testing is required in respect of the complaint, then the redressal agency will decide the case on the basis of the evidence submitted by the complainant and the opposite party.

If the complaint is made to the District Forum i.e. when the value of goods and services and the compensation claimed does not exceed Rs. 20 lakhs and if any of the party to the complaint is not satisfied with the order given by the Forum, then the aggrieved party can make an appeal within 30 days against such order to the State Commission. However, the State Commission can extend the period if sufficient cause exist for not filing the appeal within 30 days. The order made by the State Commission in respect of the appeal is final and no further appeal can be made against the order of the State Commission to the National Commission.

Aggrieved Party: The person whose personal or property rights have been adversely affected by a court judgement.

If a complaint is directly filed with the State Commission i.e. where the value of goods and services and the compensation claimed exceed Rs. 20 lakhs but does not exceed Rs. 1 crore, then an appeal against the order of the State Commission can be made to the National Commission. In such cases, the order of the National Commission is final and no further appeal can be made.

If a complaint is directly made to the National Commission i.e. where the value of goods and services and the compensation claimed exceed Rs. 1 crore, then an appeal against the order of the National Commission can be made to the Supreme Court.



LET US KNOW

In filing a complaint, the complainant can personally file the complaint or it can be sent by post. The complaint must contain names and addresses of the complainant and the opposite party, facts relating to complaint, documents in support of such complaint and compensation being claimed. The complainant is not required to pay any fee.

If the opposite party fails to give a written reply, he can make an oral representation of his case.



CHECK YOUR PROGRESS

3) Mention two powers of State Commission.

i. .....

ii. .....



CHECK YOUR PROGRESS

4) Select the correct answer:

i.) The maximum age limit of a member of the district forum is-

a. 65 years c. 70 years

b. 67 years d. 75 years

.....

ii) National Commission can complaint claiming-

a. upto Rs. 20 lakh c. upto Rs 1 crore

b. upto Rs 50 lakh d. exceeding Rs. 1 crore

.....

iii) The maximum age limit of a member of National Commission is-

a. 65 years c. 75 years

b. 70 years d. 80 years

.....

iv) The number of Dispute Redressal agencies under the Consumer Protection Act is-

a. 2 c. 4

b. 3 d. 6

.....

6.7 CONSUMER PROTECTION COUNCILS

Establishment of consumer protection councils is another important provision of the Consumer Protection Act. The consumer protection councils are in addition to the consumer disputes redressal agencies. The Act provides for the formation of Central Consumer Protection Council at National level and State Consumer Protection Councils in each state. The Councils are advisory in nature.

The principal object of the Councils is to protect the rights of the consumers like,

- Right of protection against marketing of hazardous goods;
- Right to be informed about quality, quantity, potency, purity, standard and price of goods or services;
- Right to access to variety of goods and services at competi tive rates;
- Right to be heard in appropriate forums; etc.

6.8 PENALTIES UNDER THE ACT

The consumer disputes redressal agencies decides the consumer disputes on the basis of the evidences brought by the complainant as well as the opposite party. Under the provisions of the Act, the consumer disputes redressal agencies can impose penalties on the trader, if found guilty. At the same time the Act provides for imposing penalties on the complainant, if the complaint is found to be frivolous.

If the trader against whom an order has been passed by the consumer forum and if he fails to comply with such order, he shall be punishable with imprisonment for a term not less than one month but not more than three years and/ or with fine of minimum Rs. 2, 000 and maximum up to Rs. 10, 000 or with both (section 27). If an order imposing penalty is made by State Commission or National Commission, no appeal can be made against such order.

6.9 LET US SUM UP

In this unit we have discussed the following aspects –

- According to the provisions of the Act the ‘consumer’ is the person who buys goods or services for consideration or under deferred payment basis as well as the person who uses such goods or services with the permission of the buyer.

- A person who buys goods for commercial purpose is not a consumer under the Act.
- The Act provides for the formation of the following forums for settling consumer disputes-

Consumer Disputes Redressal Agencies

At district level	At state level	At national level
District forums	State Commission	National Commission

- An individual consumer or any registered consumer association can file a complaint with such agencies.
- The redressal agencies pass the necessary order after following the procedure prescribed by the Act for the settlement of the consumer disputes.
- The redressal agencies have the powers of civil court.
- Besides the consumer disputes redressal agencies, the Act provides for the establishment of Consumer Protection Councils at central and state levels. These councils are advisory in nature.
- The Act provides for penalties for the immoral trader as well as for the complainant if any false complaint is made.



6.10 FURTHER READINGS

Students' Guide to Economic Laws by V.S. Datey



6.11 ANSWERS TO CHECK YOUR PROGRESS

Ans. To Q. No. 1:

i. False.

ii. False.

iii. False.

iv. False.

Ans. To Q. No. 2:

i. False.

ii. True.

iii. False.

iv. False.

v. False.

Ans. To Q. No. 3:

i. The State Commission can authorize a person to seize books of account, documents or commodities required for purposes of the Act;

ii. The State Commission can summon and enforce the attendance of witnesses and examine the witnesses on oath.

Ans. To Q. No. 4:

i) a.

ii) d.

iii) b.

iv) b.



6.12 MODEL QUESTIONS

1. What are the consumers disputes redressal agencies under the Act? Discuss the jurisdiction of district forums.
2. Discuss the powers of State Commission.
3. Discuss the procedure of filing a complaint in district forum.
4. Write short notes-
   i. National Commission
   ii. Consumer under Consumer Protection Act

****