

## **Maharashtra Consumer Protection Rules, 2000**

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## **Maharashtra Consumer Protection Rules, 2000**

No.CPC.5598/CR/1668/CP-3-----In exercise of the powers conferred by sub-section (4) of Section 7, sub-section(3) of Section 10, clause (c) of sub-section (1) of Section 13, sub-section (3) of Section 14, Section 15 and sub-section (2) of Section 16 of the Consumer Protection Act, 1986 (68 of 1986), and of all the other powers enabling it in that behalf, and in supersession of all previous rules, notifications, orders in this behalf, the Government of Maharashtra hereby makes the following Rules, namely -

### **1. Short title and commencement :-**

- (1) These rules may be called the Maharashtra Consumer Protection Rules, 2000
- (2) It shall come into force on the 16th February, 2000

### **2. Definitions :-**

In these rules, unless the context otherwise requires :-

- (a) "Act" means the Consumer Protection Act, 1986 (68 of 1986);

- (b) "Agent" means a person duly authorized by a party to present any complaint, appeal or reply on its behalf before the State Commission or District Forum;
- (c) "Appellant" means a party preferring an appeal against the order of the District Forum;
- (d) "Defendant" means a person responding to the complaint or the claim;
- (e) "Memorandum" means the memorandum of appeal filed by the appellant;
- (f) "President" means the President of the State Commission or as the case may be, the District Forum;
- (g) "Respondent" means the person who answers to the memorandum;
- (h) "Section" means the section of the Act;
- (i) Words and expressions used but not defined in the Act shall have the meanings respectively assigned to them in the Act.

**2A. Constitution of the State Consumer Protection Council :-**

(1) The State Government shall, by notification in the Official Gazette, constitute the State Consumer Protection Council (herein after referred to as "the State Council") which shall consist of the following 60 members, namely :-

- (a) the Minister in-charge of Consumer Affairs in the State Government who shall be the Chairman of the State Council
- (b) the Minister of State or Deputy Minister in-charge of Consumer Affairs in the State Government who shall be the Vice-Chairman of the State Council;
- (c) eight members of State Legislature-Five from Legislative Assembly and three from the Legislative Council;
- (d) the Secretary of the State Human Rights Commission;
- (e) representatives of the State Government Departments and autonomous organizations concerned with consumer interests not exceeding ten;
- (f) Registrar of the State Commission and representatives of the consumer organizations- not less than ten;
- (g) representatives of women- not less than five;
- (h) representatives of farmers, traders and industries-not exceeding nine;
- (i) persons capable of representing consumer interests not specified above- not exceeding five;
- (j) Official or non-official members nominated by the Central

Government - not exceeding ten;

(k) the Secretary of the Consumer Protection Department shall be the Member -Secretary of the State Council;

(2) The term of the State Council shall be three years.

(3) Any member may, by writing under his hand to the Chairman of the State Council, resign from the Council. The vacancies, so caused or otherwise, shall be filled in from the same category by the State Government and such person shall hold office so long as the member whose place he fills would have been entitled to hold office, if the vacancy, had not occurred.

## **2B. Procedure of the State Council :-**

Under sub-section (4) of section 7 of the Act, the State Council, shall observe the following procedure in regard to the transaction of its business -

(1) The meeting of the State Council shall be presided over by the Chairman. In the absence of the Chairman, the Vice-Chairman shall preside over the meeting of the State Council. If both Chairman and the Vice - Chairman are absent from the meeting of the State Council, the Members present shall elect one of their member to preside over that meeting.

(2) Each meeting of the State Council shall be called by giving not less than ten days from the date of issue, notice in writing to every member.

(3) Every notice of a meeting of the State Council shall specify the place and the day and hour of the meeting and shall contain statement of business to be transacted thereat.

(4) No proceedings of the State Council shall be invalid merely by reason of existence of any vacancy in or any defect in the constitution of the Council.

(5) For the purpose of performing its functions under the Act, the State Council may constitute from amongst its members, such working groups as it may deem necessary and every working group so constituted shall perform such functions as are assigned to it by the State Council. The findings of such working groups shall be placed before the State Council for its consideration.

(6) The non-official members shall be entitled to first class or second class Air Conditioned Railway fare by all trains or actual mode of travel, whichever is less. Outstation non-official members shall be entitled to a daily allowance of one hundred rupees per day for attending the meetings of the State Council or any working

group. Local non-official members shall be entitled to actual conveyance charges or hire charges subject to a ceiling of Rs.75/- per day irrespective of the classification of the city. Members of the State Legislature shall be entitled to travelling and daily allowance at such rates as are admissible to such members.

(7) The Resolution passed by the State Council shall be recommendatory in nature.

## **2C. Constitution of the District Consumer Protection Council**

**:-**

(1) The Government shall, by notification in the Official Gazette constitute the District Consumer Protection Council (hereinafter referred to as "the District Council") for every District, which shall consist of the following 41 members, namely:-

(a) the Collector of the District who shall be the Chairman of the District Council;

(b) Additional Collector of the District who shall be the acting Chairman of the District Council;

(c) Members of the Zilla Parishad - not less than two

(d) Councilors of the Municipal Corporation - not less than two

(e) Members of the Panchayat Samiti - not less than two

(f) representative of the Agriculture Produce Marketing Committee - not less than two

(g) representatives of the State Government offices and autonomous organizations concerned with consumer interests - not exceeding ten;

(h) representatives of the consumer organizations - not less than ten;

(i) representatives of the School / Colleges - not less than two;

(j) representatives of the Medical Practitioners - not less than two;

(k) representatives of the Trade and industries - not less than two;

(l) representatives of the Petrol and Gas dealers - not less than two;

(m) representatives of the farmers - not less than two;

(n) the District Supply Officer shall be the Member Secretary of the District Council;

(2) The term of the District Council shall be three years.

(3) Any member may, by writing under his hand to the Chairman of the District Council, resign from the Council. The vacancies, so caused or otherwise, shall be filled from the same category by the State Government and such person hold office so long as the

member whose place he fills would have been entitled to hold office, if the vacancy had not occurred.

## **2D. Procedure of the District Council :-**

Under sub-section (4) of section 8A of the Act, the District Council shall observe the following procedure in regard to the transaction of its business -

(1) The meeting of the District Council shall be presided over by the Chairman. In the absence of the Chairman, the acting Chairman shall preside over the meeting of the District Council.

(2) Each meetings of the District Council shall be called by giving not less than seven days from the date of issue, notice in writing to every member.

(3) Every notice of a meeting of the District Council shall specify the place and the day and hour of the meeting and shall contain statement of business to be transacted thereat.

(4) No proceeding of the District Council shall be invalid merely by reasons of existence of any vacancy in or any defect in the constitution of the council.

(5) The non-official members shall be entitled to second class Railway fare or actual mode of travel whichever is less. Outstation non-official members shall be entitled to a daily allowance of one hundred rupees per day for attending the meeting of the District Council. Local non-official members shall be paid actual conveyance or hire charges subject to a ceiling of Rs.75/- per day irrespective of the classification of the city.

( 6 ) The resolution passed by the District Council shall be recommendatory in nature.

## **3. Salaries and other allowances and terms and conditions of the President and other Members of the District Forum :-**

(1) The President of the District Forum shall receive salary at the minimum stage, of the District Judge appointed in the State Judicial Service, if appointed on whole time basis. However, if on a part time basis, i.e. on a sitting basis the President shall be paid Rs.400\* per day as honorarium. Such of the President who is appointed after selection from the retired District Judges, shall get his pay fixed as per rule 157(2) of the Maharashtra Civil Services (Pension) Rules, 1982. Deputation allowance in addition to pay and allowances shall be payable to such of the President who is appointed from the cadre of sitting District Judges. The members of

the District Forum, if appointed on whole-time basis, shall be paid a consolidated honorarium of Rs.8,000\* per mensem. For attending sittings of the Forum on per sitting basis a sitting fee of Rs.400\* or such amount as the Government may decide from time to time, shall be paid.

3(1)(a) If the Member is selected from the retired Under Secretary or its equivalent post in the Government of Maharashtra on whole time basis, shall get his pay fixed as per rule 157(2) of the Maharashtra Civil Services (Pension) Rules, 1982.

Explanation -

(1) Whenever the President attends the work of the Forum, it shall be treated as a sitting.

(2) When a Member is present and attends the work of the Forum like giving dates, admitting cases, etc. it shall be treated as a sitting.

(2) The President and the Members of the District Forum shall be entitled for such conveyance allowance and daily allowance, on official tour at such rate, as may be specified by the State Government, from time to time.

Provided that the Members of the District Forum, except the members of the Mumbai District Forum, shall be entitled to conveyance allowance at the rate that Government decides from time to time.

(2A) For the purpose of attending sittings of the District Forum, the members of the District Forum shall be entitled to actual conveyance charges, on production of the certificate that they have not been provided with Government conveyance, subject to the ceiling mentioned below :-

(i) in Mumbai District and Mumbai Suburban District, Rs.200 per day.

(ii) in the local limits of any Municipal Corporation other than Mumbai Municipal Corporation, Rs.100/- per day.

(iii) in rest of the area of the State, other than the area mentioned in clauses (i) and (ii) above, Rs.75/- per day.

(3) Before appointment, the President and Members of the District Forum shall have to make an undertaking that he does not and will not have any such financial or other interests, as is likely to affect prejudicially his functions as a President or a Member, and he shall not have any association with any political party.

(4) In addition to provisions of sub-section (2) of Section 10, the State Government may remove from the office, the President and Member of a District Forum who:-

- (a) has been adjudged an insolvent, or
- (b) has been convicted of an offence which in the opinion of the State Government, involves moral turpitude, or
- (c) has become physically or mentally incapable of acting as such member, or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member, or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has remained absent for not less than three consecutive sittings of the District Forum, without permission of the President of the State Commission, in case he is President of the District Forum and of the President of the concerned District Forum, in case he is a member.

Under special circumstances such permission may be obtained post facto, however, strictly within thirty days from the first day of such absence, failing which he shall be treated as absent;

Provided that the President or Member of the Forum shall not be removed from his office on the grounds specified in clause (d) and (e) of this sub-rule, except on an inquiry held by the President of State Commission, in which the President or Member of the District Forum, as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

(5) The terms and conditions of the service of the President and the Members of the District Forum shall not be varied to their disadvantage during their tenure of office.

(6) Where any vacancy occurs in the office of the President of the District Forum, by resignation, removal or he is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order of appointment) Member of the District Forum, who is qualified to be appointed as President of the Forum under clause (a) of sub-section (1) of Section 10, holding office for the time being, shall discharge the functions of the President until the person appointed to fill such vacancy assume the office of the President of the District Forum. In absence of both the members of the District Forum, or if none of the member is qualified to hold the office of the President, the President or any senior-most (in order of appointment) member of the District Forum of adjacent district, qualified to be appointed as a President shall discharge the functions of the President of the District Forum;

Provided that if the Member of the District Forum of any adjacent

District is qualified to be appointed as President, preference shall be given to such Member over the President of such adjacent District;

Provided further that the Government shall, by order specify the District which shall be treated as adjacent District for such purposes;

Provided also that where there are more than one Forum in the District, the President of any other Forum, in the District or any Member of any other Forum in the District, who is qualified to be appointed as a President shall discharge the functions of the President;

Provided also that, where the President or Member of the adjoining District Forum attends the work of the District Forum such President or the Member shall be paid traveling allowance and daily allowance in accordance with these Rules.

Explanation -If the Members, are not eligible under clause (a) of sub-section (1) of Section 10 of the Act, such Members shall attend the work of the Forum like giving of dates for hearing of complaints, accepting applications, complaints, etc. and bring the same to the notice of the President. Every such work shall be deemed to be a sitting. However, they shall not hear and dispose of the complaints. It shall be the duty of the Registrar and the other Members of the staff to assist the Members in discharging such functions.

(7) The President or any Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organization which have been the subject of any proceeding under the Act during his tenure for a period of five years from the date on which he ceases to hold such office.

(8) The President of the District Forum shall discharge the judicial functions, while the Registrar of the District Forum shall discharge the administrative functions.

#### **4. Place of sitting and other matters relating to District Forum :-**

(1) The office of the District Forum shall be located at the headquarter of the District, where the State Government decides to establish a single District Forum having jurisdiction over more than one District, it shall notify the place and jurisdiction of the District Forum so established.



(2) The working days and the office hours of the District Forums shall be the same as that of the State Government Provided that, if any of the Members of the Forum is a part timer, the President shall fix the timings in consultation with such Member. However, while fixing such timings the President shall ensure that two of the Member shall be present at one time at least for two hours in a day.

(3) The official seal and emblem of the District Forum shall be such as the State Government may specify

(4) Sitting of the District Forum, as and when necessary, shall be convened by the President

(5) State Government shall appoint such staff, as may be necessary to assist the District Forum in its day to day work and perform such other functions as are provided under these rules, or assigned to it by the President.

(6) Where the opposite party (Defendant) admits the allegation made by the complainant, the District Forum shall decide the complaint on the basis of the merit of the case and documents present before it.

(7) If during the proceedings conducted under Section 13, District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party (Defendant) or its authorized agent to appear before the District Forum on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorized agent fails to appear before the District Forum on such day, the District Forum may in its discretion either dismiss the complaint for default or decide in on merit. Where the opposite party (Defendant) or its authorized agent fails to appear on the day of hearing, the District Forum may decide the complaint ex parte.

(8) While proceeding under sub-section (7), the District Forum may, on the reasonable grounds at any stage, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided as far as possible within 90 days from the date of notice received by the opposite party (Defendant) where complaint does not require analysis or testing of the goods and as far as possible within 150 days if it requires analysis or testing of the goods.

(9) Orders of the District Forum shall be signed and dated by the Members of the District Forum constituting the Bench and shall be communicated to the parties free of charge.

(10) When the hearing takes place at the time when all Members of

the District Forum are present, the opinion of the majority shall be the order of the Forum.

**5. Procedure to be adopted by the District Forum for analysis and testing of goods :-**

(1) Under clause (c) of sub-section (1) of Section 13, if considered necessary, the District Forum may direct the complainant to provide more than one sample of the goods in clean containers with stopper properly fixed on them.

(2) On receiving the samples of goods, the District Forum shall seal it and fix labels on the containers carrying following information :-

(i) name and address of the appropriate laboratory to whom sample will be sent for analysis and test;

(ii) name and address of the District Forum;

(iii) case number;

(iv) seal of the District Forum

(3) The sample will be sent to the appropriate laboratory by the District Forum for report within 45 days or within such extended time as may be granted by the District Forum after specifying the nature of the defect alleged and date of submission of the report.

**6. Procedure of the District Forum :-**

(1) The language of the District Forum shall be Marathi. Explanation - For the purpose of this sub rule language includes language of hearings, and orders.

(2) The complaint before the District Forum shall be made in writing and may be filed in the District Forum or sent by post. The complaint and the documents shall be in triplicate and shall be accompanied by as many copies of the complaint and documents as the number of defendants. The Registrar shall on receipt of the complaint scrutinize the same and file the same in the Register maintained for this purpose.

(3) The District Forum is the authority to decide any complaint, including the preliminary hearing, necessary, if any.

(4) The defendant shall give his reply and documents in quadruplicate.

(5) The President and Member of the District Forum shall endeavour the speedy trial for disposal of the matters.

(6) The President of the District Forum shall, after receipt of the execution application of the judgment forward the same to the Civil Court for necessary execution.

(7) The Registrar shall provide the Members of the Forum information with regard to official work and correspondence of the Forum with the Government. It shall be the duty of the Registrar to place with the Members the files with respect to the matters with the Forum so that the Members can devote their time for the working of the Forum.

**7. Salaries and allowances and terms and conditions of the President and other Members of the State Commission :-**

(1) The President of the State Commission shall receive salary at par of the salary of the Judge of the High Court, if appointed on whole time basis or a consolidated honorarium of Rs.500\* per day for the sitting, if appointed on part-time basis. Other Members, if sitting as whole time basis shall receive a consolidated honorarium of Rs.10,000\* per mensem and if sitting on a part-time basis a consolidated honorarium of Rs.500 or such sum as may be decided by the Government from time to time.

(1)(a) If the Member is selected from the retired Deputy Secretary or its equivalent or above the said post in the Government of Maharashtra on whole time basis shall get his pay fixed as per Rule 157(2) of the Maharashtra Civil Services(Pension) Rules, 1982.

(1)(b) If the Member is selected from the retired District Judges, his pay should be fixed as per Rule 157(2) of the Maharashtra Civil Services (Pension) Rules, 1982. Deputation allowance in addition to pay and allowances shall be payable to such of the judicial Members who is appointed from the cadre of sitting District Judges. The sitting District Judge is entitled to get 75 litres of petrol per month.

(2) The President and the Members of the State Commission shall be entitled for such conveyance allowance and daily allowance on official tour, at such rate, as specified by the State Government, from time to time.

2(A) For the purpose of attending sittings of the State Commission, including sittings of Circuit Benches, the Members of the State Commission including the Members of the Circuit Benches shall be entitled to actual conveyance charges, subject to a ceiling of Rs.200 per day, on production of the certificate that they have not been provided with Government conveyance.

(3) The President and the Members of the State Commission shall hold office for a term of five years or upto the age of 67 years whichever is earlier and shall not be eligible for re-appointment.

Provided that the President and Members may :-

- (a) by writing under his hand and addressed to the State Government resign his office at any time;
- (b) be removed from his office in accordance with the provisions of sub-rule (4).

(4) The State Government may remove from office, President or a Member of the State Commission who :-

- (a) has been adjudged an insolvent, or
- (b) has been convicted of an offence which in the opinion of the State Government, involves moral turpitude, or
- (c) has become physically or mentally incapable of acting as such member, or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member, or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has remained absent from three consecutive sittings of the State Commission, without permission of the State Government, in case he is President of the Commission and of the President of the State Commission, in case he is a member under special circumstances such permission may be obtained post facto, however, strictly within thirty days from the first day of such absence, failing which, he shall be treated as absent;

Provided that, the President or Member of the State Commission shall not be removed from his office on the grounds specified in clause (d) and (e) of this sub-rule, except on an inquiry held by a sitting or retired Judge of the Bombay High Court who is nominated by the Chief Justice of the Bombay High Court, in which the President or Member of the State Commission, as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

(5) Before appointment, the President and Members of the State Commission shall have to take an undertaking that he does not have and will not have any such financial or other interests as is likely to affect prejudicially his functions as a President or a Member and he shall not have any association with any political party.

(6) The terms and conditions of the service of the President and the Members of the State Commission shall not be varied to their disadvantages during their tenure of office.

(7) Every vacancy caused by resignation and removal of the

President or any other Member of the State Commission under subsection (3) or otherwise shall be filled by fresh appointment.

(8) Where any vacancy occurs in the office of the President of the State Commission, by resignation, removal or he is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order of appointment) Member of the State Commission, holding office for the time being; shall be acting President until a person appointed to fill such vacancy assumes the office of the President of the State Commission. However, such acting President and the other Members shall not hear and decide contested matters. They can dispose of ex parte matters and can give further dates of hearing. However, in the ex parte matters, the opinion of such acting President and Member should be unanimous.

(9) The President or any Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organization which has been the subject of any proceeding under the Act during his tenure for a period for 5 years from the date on which he ceases to hold such office.

## **8. Place of sitting and other matters relating to State Commission :-**

(1) Office of the State Commission shall be located at Mumbai

(2) The working days and the office hours of the State Commission shall be the same as that of the State Government.

(3) The official seal and emblem of the State Commission shall be such as the State Government may specify

(4) Sitting of the State Commission as and when necessary, shall be convened by the President

(5) State Government shall appoint such staff, as may be necessary to assist the State Commission in its work and perform such other functions as are provided under these rules or assigned to it by the President.

(6) Where the opposite party (Defendant) admits the allegation made by the complainant, the State Commission shall decide the complaint on the basis of the merit of the case and documents present before it.

(7) If during the proceedings conducted under Section 13, State Commission fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party (Defendant) or its

authorized agent to appear before the State Commission on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorized agent fails to appear before the State Commission on such day, the State Commission may in its discretion either dismiss the complaint for default or decide in on merits. Where the opposite party (Defendant) or its authorized agent fails to appear on the day of hearing, the State Commission may decide the complaint ex parte.

(8) While proceeding under sub-rule (8), the State Commission may, on such terms as it may think fit and at any stage adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party (Defendant) where complaint does not require analysis or testing of the goods and within 150 days if it requires analysis or testing of the goods.

(9) Orders of the State Commission shall be signed and dated by the Members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

## **9. Procedure for hearing appeal :-**

(1) Memorandum shall be presented by the appellant or his authorized agent to the State Commission in person or sent by registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible handwriting preferably typed and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively,

(3) Each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of period of limitation as specified in the Act, memorandum shall be accompanied by an application supported by an affidavit setting forth the fact on which appellant relies to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies of the memorandum to the State Commission for official purposes.

(6) On the date of hearing or any other day to which hearing may

be adjourned, it shall be obligatory for the parties or their authorized agents to appear before the State Commission. If appellant or his authorized agent fails to appear on such date, the State Commission may, in its discretion either dismiss the appeal or decide it on the merit of the case. If respondent or his authorized agent fails to appear on such date, the State Commission shall proceed ex-parte and shall decide the appeal ex parte on merits of the case.

(7) The appellant shall not except by leave of the State Commission, urge or be heard in support of any ground of objections not set forth in the memorandum, but the State Commission, in deciding the appeal, shall not confine to the grounds of objection set forth in the memorandum or taken by leave of the State Commission under the rule;

Provided that the Commission shall not rest its decision on any other ground unless the party who may be affected thereby, has been given at least one opportunity of being heard by the State Commission.

(8) State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of appeal if there are reasonable grounds, but not more than one adjournment shall ordinarily be given and the appeal should be decided as far as possible within 90 days from the first date of hearing.

(9) The orders of the State Commission on appeal shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

#### **10. Repeal and savings :-**

On the commencement of these rules the Maharashtra Consumer Protection Rules, 1987, in so far as they relate to matters provided by these rules, are hereby repealed; Provided that-

(a) such repeal shall not affect previous operation of any notifications or orders made or anything done or any action taken under the rules so repealed;

(b) any proceedings under the rules so repealed which were pending at the commencement of these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules, as if, such proceedings were proceedings under these rules.