



UPDATE ON THE CONSUMER PROTECTION ACT, 2019 COMING INTO EFFECT ON 20 JULY 2020

The Central Government's Department of Consumer Affairs *vide* Notification dated 15/07/2020 has notified that several provisions of the Consumer Protection Act, 2019 (hereafter, the "**Act**") will come into force from 20/07/2020, and replaces the erstwhile Consumer Protection Act, 1986. The Act, enacted to meet with the developments of time and internet business models, aims at protecting and strengthening the rights of the consumers by establishing authorities including the Consumer Disputes Redressal Commission ("**CDRC**") [Consumer Protection (CDRC) Rules, 2020 also brought into force], imposing strict liabilities and penalties on product manufacturers, electronic service providers, misleading advertisers, and by providing additional settlement of consumer disputes through mediation [Consumer Protection (mediation) Rules, 2020 also brought into force].

PROVISIONS OF THE ACT COMING INTO FORCE ON 20 JULY 2020

Sections	Particulars
2 [except clauses (4) (13) (14) (16) (40)]	Definitions [including new definitions of electronic service provider, endorsement, product liability, product manufacturer & seller, product service provider, unfair contract, unfair trade practice]
3 to 9	Composition of Central Consumer Protection Council (" CCPC ") [Powers and constitution of CCPC not notified]

Sections	Particulars
28 to 73 [except sub-clauses (iv) of clause (a) of sub-section (1) of Section 58]	CDRC establishment, constitution and procedures at District, State and National levels – increase in limits for pecuniary jurisdiction at District and State levels.
74 to 81	Mediation procedures and establishment of mediation cell.
82 to 87	Product liability- New type of actionable claim
90 & 91 [except 88, 89, 92 & 93]	Offences and penalties- increased liability
95, 98, & 100 to 107 [Except 94, 96, 97, 99, 101 (f) to (m), (zg), (zh), (zi), and 104]	Miscellaneous provisions pertaining to protection of action taken in good faith, the operation of the Act, making of rules and regulations pursuant to the Act.

PROVISIONS OF THE ACT NOT COMING INTO FORCE AS ON 20 JULY 2020

Sections	Particulars
2 (4) (13) (14) (16) & (40)	Definitions of central authority, direct selling, director general, e-commerce and regulator.
10 to 27	Establishment, powers and constitution of CCPC.
58(1)	Jurisdiction of the National Commission.
88, 89, 92 & 93	Penalty for non-compliance of direction of Central Authority, false or misleading advertisement, cognizance by court & vexatious search penalty to avoid abuse by Government functionaries.

Sections	Particulars
94, 96, 97, 99, 101 (f) to (m), (zg), (zh), (zi), and 104	Measures to prevent unfair trade in e-commerce, compounding of offences, penalty credit manner, Central Government power to issue directions, power to make rules on the provisions not being brought into force, and power of Central Authority to make regulations.

HIGHLIGHTS OF THE PROVISIONS COMING INTO FORCE ON 20 JULY 2020

➤ ***Transactions on online marketplaces amenable to the Act***

The Act has widened the definition of 'consumer' to include any person who **buys any goods, whether through offline or online transactions**, electronic means, teleshopping, direct selling or multi-level marketing. By defining an electronic service provider, product service provider and product liability, the Act now makes even marketplaces & intermediaries responsible and liable to consumers.

➤ ***Enhancement of pecuniary jurisdiction of various forums***

Forum	Claim value limit under the 1986 Act	Revised claim value limit under 2019 Act
District Forum	Rupees 20 lakh	Rupees 1 crore
State Commission	Rupees 1 crore	Rupees 10 crore
National Commission	Above Rupees 1 crore	Above Rupees 10 crore

➤ ***Ease of filing complaints and appearances***

- As opposed to the 1986 Act, where the consumer could file complaints only at the place of purchase or where the seller has its registered office, the new Act allows the **consumer to file complaints within the jurisdiction where he/she resides or works ordinarily.**
- Consumers can now **file complaints electronically and attend hearings and/or evidentiary examinations through video conferencing.**

➤ ***Introduction of product liability & penal consequences***

- A new concept of 'product liability' has been introduced, where all levels of the product chain, i.e., the **product manufacturer, product service provider and product seller are all made liable** for any single product. This is to bring into ambit of the Act, the malpractices and the freewheeling of online marketplaces/platforms/aggregators.
- Product manufacturers continue to be amenable to higher liability even where they were not negligent or fraudulent; product sellers, on the other hand are given exceptions from liability in case of modification, alteration or misuse of product.

➤ ***Mediation for resolution of consumer disputes***

- Mediation is now recommended in most matters before adjudicating in an adversarial trial manner, similar to present practice of mediation compulsion in all family matters.

- Mediation process shall however be **exempted for** (i) medical negligence matters resulting in death or grievous injury; (ii) fraudulent transactions involving serious crimes such as forgery, coercion, impersonation, etc.; (iii) matters involving criminal and non-compoundable offences; (iv) public interest matters; and (v) matters where opposite party has already sought for compounding of offence.

➤ ***Introduction of the concept of ‘unfair contract’***

In order to eliminate the one-sided contracts, a new concept of ‘unfair contract’ has been introduced. Under this, contracts requiring **excessive security deposits**, imposing **disproportionate penalties**, **refusal of early repayments**, allowing **unilateral terminations** and **unreasonable service charge or obligations** can all be challenged before the jurisdictional consumer commission.

➤ ***Widening the scope of unfair trade practices***

The definition of ‘unfair trade practices’ has been broadened sufficiently so as to **prevent illegal deep discounting** (perhaps referring to online marketplaces festival sales), **warranty rejections without adequate reasoning** and even **prohibition of the sharing of any personal information** (through cookies and other online tools) **for targeted marketing**.

➤ ***Increased liability for certain offences***

For manufacturing/selling/importing/distributing any **adulterated or spurious products**, **criminal punishments have been introduced** ranging from 6 months’ imprisonment to life imprisonment, and

penalties ranging from Rupees 1 lakh to unlimited penal liability, depending on the nature of harm to the consumer.

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