

Procedure to File Complaint under Consumer Protection (Amendment) Act, 2019
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The Complete Process of Filing a Consumer Complaint: Consumer Protection Act, 2019

The Consumer Protection Act, 2019 ("New Act") got presidential assent on 9th August 2019, and the same came into effect from 20th July 2020 replacing the old Consumer Protection Act, 1986 ("Old Act"). The purpose of the act is to protect the interest of the consumers and to provide effective and timely settlement of dispute, connected to consumers. The New Act introduced the online filing of complaint and mediation proceeding for the speedy and effective disposal of consumer cases.

Under Section 2 (6) of New Act, Complaint is defined as any allegation in writing, made by a complainant for obtaining the relief provided under the act in case of unfair trade practices, defects in goods, deficiency in service, excess price of goods and services, selling of hazardous goods. Complainant can also claim product liability against the manufacturer or service provider.

The New Act introduces the provision for "Product Liability" under which manufacturer/ service provider is liable to compensate consumers in case of injury caused due to a manufacturing defect/ deficient service.

Regulatory Bodies/ Advisory Bodies/Authorities Under the New Act :

In the New Act, Central Protection Councils are recognized as advisory bodies to protect and promote Consumer Rights, which are established at District, State, and Central levels.

Further, the New Act establishes the "Central Consumer Protection Authority (CCPA)" to promote, protect and enforce the right of consumers. CCPA has also been given power under the act to pass orders, prevent unfair trade practices, and to impose penalties in case of misleading advertisements. The CCPA includes the District Collector, Commissioner of the regional office, and Central Authority.

Furthermore, there is an introduction to Alternative Dispute Redressal Mechanism, according to which "Mediation Cells" will be attached to every District, State, and National Commission.

The District Commission, State Commission, and National Commission are the authorities for the final adjudication of the matter. If the complainant or opposite party failed to come to a settlement before the CCPA/Mediation Cells, then the complaint can be further dealt with by District, State, or

National Commission.

Who Can file the Complaint

The following person/association can file the complaint before the designated authorities:-

- Any consumer to whom the goods or services were provided
- A Group of consumers having similar interest in the matter
- Consumer Associations
- State Government or Central Government
- In the case of a minor-legal guardian
- Central Authority

In the Old Act, there was no mention of the Central Authority, however, the New Act introduces the "Central Authority" in District, State and Central level, which can file consumer complaint before the jurisdictional commission after a thorough investigation in the matter.

Mediation Proceeding:

The New Act introduces Alternative Dispute Mechanism for the speedy and effective redressal of the consumer cases.

Initiation of Mediation Proceedings:

- If the commissions thinks there is a possibility of a settlement of the dispute between the parties, then same can be transferred to Mediation Cell or ;
- The written request can be made by either of the parties to District, State or National Commission stating
- Details of the parties
- Nature of the dispute
- Amount involved
- Relief sorted
- Proposal for appointment of Mediator (Language, Qualification, experience, etc)

Procedure to be followed

- Parties can mutually agree on the procedure to be followed or;
- If parties fail to come for mutual ground, then the mediator shall follow the procedure mentioned below :
- Mediator shall fix the time, date and venue, where parties have to be present or ;
- Mediation Proceedings can be held at the Mediation Cell attached to District, State or National Commission.
- Joint/ Separate meetings of the parties to be conducted.
- Within the period of 10 days, before the session, both the parties shall submit the Memorandum of Issues to the mediator and other parties involved highlighting the issues which need to be resolved.
- Necessary information to be provided to the mediator by both the parties.
- Mediator shall facilitate a voluntary resolution between the parties, communicate view of the parties and help the assist the issue.
- Within the period of 30 days, the parties should reach an amicable settlement.
- If the parties arrive at a settlement, the same shall be reduced in writing and the same needs to be signed by both the parties and Mediator. The mediator shall further submit the detailed report of settlement to the concerned commission.
- If parties failed to reach a settlement, then Mediator shall submit the

report to the commission stating the reasons for non-settlement.

Institution of Consumer Complaint

The New Act introduces the "Online Filing" of Consumer Complaints.

Step 1 (Issuance Of Notice): Before the filing of the complaint, it is advisable for the complainant to issue a notice to the opposite party, highlighting the defects/deficiencies in the goods or services provided. If parties don't agree to come to a mutual understanding then the complainant can file a complaint before a jurisdiction authority/forum.

Step 2 (Determining the Jurisdiction): The Complaint has to be filed within the Pecuniary and Territorial Jurisdiction.

Pecuniary Jurisdiction: (As Per New Act)

- District Commission: Amount not exceeding 1 crore
- State Commission: Rupees 1 Crore to 10 Crore
- National Commission: Amount exceeding Rupees 10 Crore

Whereas, under old Act, the pecuniary jurisdiction was as below:

- District Commission : Amount not exceeding Rupees 20 lakhs
- State Commission: Rupees 20 Lakhs to 1 Crore.
- National Commission: Amount exceeding 1 Crore.

Territorial Jurisdiction:

Place where the opposite party resides or if there are more than one opposite party, then the place where opposite parties reside or carry on business or personally works for gain.

Step 3 (Submission of Complaint): Complaint can be submitted in the form of Writing or through Online.

Registration of Online Complaint

- Aggrieved Party can register complaints on <https://consumerhelpline.gov.in/>.
- Complaints can be registered by filling essentials details like name, email, contact number & password.
- Complainant will receive login credentials through which he can register a complaint by uploading required documents.
- There are different portals available for different sectors.
- A consumer can also register complaints through Mobile Apps namely the NCH app, Umang App or Consumer App.
- Post-registration of the complaint, complainant will be provided with a unique identification number through which he can determine the status of the complaint.
- Fees for the complaint can be submitted through online payment portal.

Step 4 : (Contents of the Complaint): Complaint should contain the following information

- Name and complete details of complainant And opposite party.
- Date and time of purchase of goods/ availing of services.
- Necessary Facts of the case establishing the cause of action.
- Particulars of dispute: Defect in goods/ deficiency in service.
- Relief sought
- Copies of the documents supporting the contention of the complainant. (Invoice, Warranty receipt, etc)

Step 5 (Limitation for filing Complaint/Appeal): The Complaint before the District Commission needs to be filed within the 2 years from the date of dispute. Further, appeal before State Commission to be filed within 45 days from the date of order of District Commission. Further, appeal to the National Commission should be made within 30 days from the date of receipt of

the order from the lower forum.

Step 6 (Court Fees): The Court fees have to be paid in the form of Demand Draft, in respect of the Registrar of respective Commissions. In respect of the National Commission, the appellant has to make the Demand Draft of Rupees 5,000/-.

Conclusion

By introducing the online form of complaint, the government has taken a greater step towards resolving/addressing consumers' grievances in a speedy manner. The online procedure can be considered as one of the friendly and fruitful procedures, especially during the time of the pandemic. Further, the addition of an alternative dispute resolution mechanism is the step toward the achievement of a peaceful settlement between the parties, which will have a greater impact on both the consumers and service providers in long term. The Dispute Resolution Mechanism can save the parties from the long and tedious procedures, by helping them to find the solution at the initial stage itself.

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