

# The Orissa Consumer Protection Rules, 1987

ODISHA

India

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### Rule THE-ORISSA-CONSUMER-PROTECTION-RULES-1987 of 1987

- Published on 15 March 1988
- Commenced on 15 March 1988
- [This is the version of this document from 15 March 1988.]
- [Note: The original publication document is not available and this content could not be verified.]

The Orissa Consumer Protection Rules, 1987Published vide Notification No. PD. IC 9/87/7944 dated 15.3.1988, published in FOG No. 484 dated 24.3.1988

#### 1. Short title and commencement.

(1)These rules may be called the Orissa Consumer Protection Rules, 1987.(2)They shall come into force on the date of their publication in the Orissa Gazette.

#### 2. Definition.

- In these rules the context otherwise requires :(a)"Act" means the Consumer Protection Act, 1986 (68 of 1986);(b)"agent" means a person duly authorised by a party to present any complaint or appeal or reply on its behalf the District Forum or the State Commission;(c)"appellant" means a party which makes an appeal against the order of the District Forum;(d)"memorandum" means memorandum of appeal filed by the appellant;(e)"opposite party" means a person who answer complaint of claim;(f)"President" means the President of the State Commission or District Forum, as the case may be;(g)"respondent" means the person who answers any memorandum of appeal;(h)"State Government" means the Government of Orissa.

#### 3. Salary or honorarium and other allowances and terms and conditions of the President and members of the District Forum.

[Section 10(3)] - [(1) The President of the District Forum shall receive the salary or an honorarium at the following rate, namely :(a)If a person who is serving as District Judge is appointed on whole time basis.The Salary of District Judge.(b)If a person who is serving as District Judge is appointed on part time basis.Honorarium at the rate of Rupees one hundred fifty per day of sitting.(c)If a

retired person who had been a District Judge is appointed on whole time basis. A consolidated salary of rupees three thousand per month, over and above the pension. (d) If a person who is qualified to be a District Judge is appointed on whole time basis. A consolidated salary of rupees three thousand per month. (2) The other members of the District Forum shall receive a consolidated salary of rupees one thousand if appointed on whole time basis and honorarium at the rate of rupees one hundred per day of the sitting if appointed on part time basis. (3) The President and the member of the District Forum shall be entitled to such travelling allowance and daily allowances on official tour as are admissible to Class I Officers of the State Government under the Orissa Travelling Allowance Rules. (4) The salary honorarium and other allowances shall be defrayed out of the Consolidated Fund of the State and the State Government may by notification, enhance the salary or honorarium from time to time. (5) Before appointment, the President (if is not a serving District Judge) and the members of the District Forum shall furnish affidavits that they do not and shall not have: (a) membership any political party or any communal organisation, and (b) any financial or other interests as are likely to affect prejudicially their functions as member of the said Forum. (6) The President or a member of a District Forum shall cease to be the President or members as the case may be, if he (a) dies or resign from office or attains the age specified in Sub-Section (2) of Section 10 of the Act, or (b) is adjudged an insolvent, or (c) is convicted of an offence involving moral turpitude. (d) [remains absent in three consecutive sittings of the District Forum except for reasons beyond his control]. (e) joins political party or a communal organisation; or (f) becomes physically or mentally incapable to discharge his functions efficiently; or (g) acquires such financial or other interest as is likely to affect his functions prejudicially; or (h) so abuses his position as to render continuance in office prejudicial to the public interest. Provided that the membership on any of the grounds specified in Clauses (f), (g) and (h) above shall cease either on his own admission or on the basis of a finding by an enquiry ceased by the State Government]. [Orissa Gazette Extraordinary No. 956, dated 19.7.1993, Notification. S.R.O. No. 558/93 dated 6.7.1993.] (7) [Where any vacancy occurs in the office of the President of the District Forum by reason of retirement, absence or otherwise, the duties of the office shall be performed by such person who is qualified to be appointed as President of the District Forum and if such person is not available then the senior most (in order of appointment) Member of the District Forum holding office for the time being, shall discharge the function of the President until a person is appointed to fill up such vacancy and assumes the office of President of the District Forum or the President joins his duty.] [Substituted vide O.G.E. No. 1413 dated 2.9.2002.] (8) When the President of the District Forum 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 shall discharge the functions of the President until the day on which the President resumes his functions. (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 organisation which have been the subject to any proceeding under the Act during his tenure for a period of 5 years from the date on which he cease to hold such office.

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

[Section 14(3)] - [(1) The office of the District Forum shall be located as such place within the district as may be notified by the State Government; and] [Substituted by O.G.E. No. 956 dated 19.7.1993, Notification S.R.O. No. 558/93 dated 6.7.1993.] (2) The working days and the office hours

of the District Forum shall be the same as that of the State Government.(3)The official seal and emblem of the District Forum shall be such as the State Government may specify.(4)[The sitting of the District Forum shall ordinary be held at the headquarters and depending on the number of cases the District Forum may also have its sitting ut other suitable places within the district.] [Substituted by O.G.E. No. 956 dated 19.7.1993, Notification S.R.O. No. 558/93 dated 6.7.1993.](5)No act or proceedings or the District Forum shall be invalid by reason only of the existence of any vacancy among its members or any defects in its constitution.(6)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 may be assigned to them by the President under these rules. The salary payable to such staff shall be defrayed out of the Consolidated Fund of the State Government.(7)Where the opposite party 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 presented before it.(8)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 or its authorised 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 authorised 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 it on merit. Where the opposite party or its authorised agent tails to appear on the day of hearing, the District Forum may decide the complaint ex parte.(9)While proceeding under Sub-rule (8), the District Forum may, on such terms as it may think fit and at any stage, adjourn the hearing of the complaint but not more than adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party where complaint does not require analysis or resting of the goods and within 150 days if it requires analysis or testing of goods.(10)Order of the District Forum shall be signed and dated by the members of the District Forum hearing the complaint and shall be communicated to the parties free of charge.

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

[Section 13(1)(c)] - (1) The District Forum if considers it necessary, 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 such goods, the District Forum shall seal them and fix labels on the containers carrying following information namely :(i)name and address of the appropriate laboratory to whom samples 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 District Forum shall send the samples to the appropriate laboratory for sending a 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. Salary or honorarium and other allowances and terms and conditions of the President and members of the State Commission.**

- [Section 16 (2)] - (1) President of the State Commission, shall receive the salary of the judge of a

High Court if appointed on whole time basis or an honorarium of Rs. 200/- per day for the sitting if appointed on part-time basis. Other members, if appointed on whole time basis, shall receive a consolidated salary of Rs. 3000/- per month or an honorarium of Rs. 150/- per day for the sitting if appointed on part-time basis.(2)The President and the members of the State Commission shall be eligible for such travelling allowances and daily allowance of official tour as are admissible to Class-I officer of the State Government under the Orissa Travelling Allowances Rules.(3)The salary, honorarium, other allowances shall be defrayed out of the Consolidated Fund of the State Government. [The State Government may by notification enhance the salary or honorarium from time to time.(4)The President and the members of the State Commission shall hold office for the term specified in Section 16 of the Act.(5)The President or a member of the State Commission shall cease to be the President or members as the case may be, if he, -(a)dies or resigns from office or attains the age specified in Subsection (3) of Section 16 of the Act; or(b)is adjudged an insolvent; or(c)is convicted of an offence involving moral turpitude; or(d)remains absent in three consecutive sitting of the State Commission; or(e)joins a political party or a communal organisation; or(f)becomes physically or mentally incapable to discharge his functions efficiently; or(g)acquires such financial or other interest as is likely to affect his functions prejudicially; or(h)so abuses his position as to render his continuance in office prejudicial to the public interest :Provided that the membership on any of the ground specified in Clause (f), (g) and (h) above; shall cease either on his own admission or on the basis of a finding by an enquiry caused by the State Government.(6)Before appointment the President (if he is not a sitting Judge of the High Court) and the member of the State Commission shall furnish affidavit they do not and shall not have -(a)membership in any political party or any communal organisation; and(b)any financial or other interests as are likely to affect prejudicially their function as member of the State Commission.(7)The President of the State Commission shall exercise the powers of supervision, review, monitoral and co-ordination over the functioning of the members of the State Commission and the Presidents and the members of the District Forums of various districts. The President of the State Commission and the President of the District Forum shall ensure the regular and timely transmission of the report, return and any other required information to the State Government; and(8)Every vacancy caused in the office of the President or the members of the State Commission shall be filled up by fresh appointment.] [O.G.E.No. 956/dated 12.7.1993 Notification S.R.O. No. 558/93 dated 6.7.1993.](9)Where any such vacancy occurs in the office of the President of the State Commission, the senior-most (in order of appointments) member holding office for the time being shall discharge the functions of the President until a person appointed to fill such vacancy assumes the office of the President of the State Commission.(10)When the President of the State Commission 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 shall discharge the functions of the President until the day on which the President resumes his functions.(11)The President or any member causing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organisation which has been the subject of any proceeding under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office :[Provided that where the President is the sitting Judge of the High Court of the State, no undertaking shall be necessary] [Inserted by Second Amendment to Rule 1988 Vide Notification No. PL. IC/16/88-41464 dated 31st December, 1988.].

## **7. Place of sitting and other matters relating to State Commission.**

[Section 14(3)] - (1) Office of the State Commission shall be located [\* \* \*] [Omitted by Second Amendment to Rule 1988 Vide Notification No. PL. IC/16/88-41464 dated 31st December 1988.] [\* \* \*] [Omitted by O.G.E. No. 956, dated 19.7.1993. Notification S.R.O. No. 558/93 dated 6.7.1993.] at such place within the State as may be notified by the State Government.(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)[The sitting of the State Commission shall ordinarily be held at headquarters of the State Commission and, depending on the number of cases, the State Commission may also have its sitting at other suitable places within the State.] [Substituted by O.G.E. No. 956, dated 19.7.1993. Notification S.R.O. No. 558/93 dated 6.7.1993.](5)No act or proceedings of the State Commission shall be invalid by reasons only of the existence on any vacancy among its members or any defect in its constitution thereof.(6)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. The salary payable to such staff shall be defrayed out of the Consolidated Fund of the State Government.(7)The provisions contained in Sub-rules (7) to (10) of Rule 4 shall mutatis mutandis apply to the appeal preferred before the State Commission subject to the modifications specified in Rule 8.

## **8. Procedure of hearing appeal.**

[Section 15] - (1) Memorandum shall be presented by the appellant or his authorised 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 such appeal without any argument or narrative and such ground 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 memorandum is presented after the expiry of period of limitation as specified in the Act, such 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 date to which hearing has been adjourned, it shall be obligatory for the parties or their authorised agents to appear before the State Commission on such date. If appellant or his authorised 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 cases. If respondent or his authorised agent fails to appear on such date, the State Commission shall proceed ex parte and shall decide the appeal ex parte on merit 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 objection 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 this Rule :Provided that the State Commission shall not rest its decision on any other grounds 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, but more than one adjournment shall ordinarily be given and the appeal should be decided within 90 days from the first date of hearing.(9)Order of the State Commission on appeal shall be signed and dated by the members of the State Commission hearing the appeal and shall be communicated to the parties free of charge.

## **9. [ Composition of State Consumer Protection Council.] [Inserted vide S.R.O. No.168/2005. O.G.E. NO.508 dated the 23rd March, 2005.]**

(1)The State Consumer Protection Council, hereinafter referred to as the State Council, shall comprise the following members : (i)The Minister-in-charge of consumer welfare who shall be the Chairman of the State Council; (ii)Two Members of Parliament to be nominated by Government; (iii)Six Members from Legislative Assembly, two from each Revenue Division to be nominated by Government. (iv)Two Presidents of Zilla Parishad, one Mayor of Municipal Corporation, three Chairpersons of Municipalities, three Chairpersons of N.A.Cs. and seven Chairpersons of Panchayat Samitis to be nominated by the Government. (v)Ten Members to be nominated by the Central Government in accordance with provisions of the Act; (vi)Ten representatives of Voluntary Consumer Organisation (V.C.Os) of whom not less than five shall be women. (vii)One representative of federations of consumer organisations of the State. (viii)The Secretary to Government of Orissa in charge of consumer affairs. (ix)Secretaries to Government of Orissa in Finance Department, Planning and Co-ordination Department, Panchayati Raj Department, Housing and Urban Development Department, Transport Department and Water Resources Department or their nominees not below the rank of Deputy Secretary. (x)Two persons representing interest of the farmers; (xi)Three persons representing interests of the trade and commerce; (xii)Three persons representing interests of Industry. (xiii)Not more than ten persons capable of representing the consumer interest not specified above who have been working for the interest and welfare of the consumers for ten years of whom at least fifty per cent shall be women. (xiv)Secretary of the State Commission; and (xv)Director in charge of Consumer Affairs who shall be the Member Secretary of the State Council. (2)The term of the Council shall be three years. (3)Any member may be writing under his hand to the Chairman of the State Council resign from the Council and the vacancies so caused or otherwise shall be filled up from the same category by the State Government and such person shall continue to be the member for the remaining period of the term of the member whose place he fills up. (4)For the purpose of monitoring the implementation of the recommendations of the State Council and to suggest the better and effective working of the Council, the Council shall constitute a working group from amongst the members of the Council under the Chairmanship of the member-secretary of the Council. The working group shall consist of not more than five members and shall meet as and when considered necessary by the State Government. Committee shall submit its report to Council for consideration. (5)[ \* \* \* ] [Deleted vide O.G.E. No. 1871 dated 6.10.2007.](6)[ The members mentioned in clauses (ii) to (vii) and (x) to (xiii) of sub-rule (1) shall be treated as non-official members for the purpose of clause (vi) of rule 10] [Inserted vide O.G.E. No. 1871 dated 6.10.2007.].

## 10. Procedure of the meeting of State Council.

- The State Council shall observe the following procedure in regard to the transaction of its business; namely;(i)The meeting of the State Council shall be presided over by the Chairman and in his absence the members present shall elect a member present amongst themselves to preside over that meeting of the Council.(ii)Each meeting of the State Council shall be called by giving notice of not less than ten days from the date of issue of notice in writing to each and every member.(iii)Every notice of the meeting of the Council shall specify the date, place, day and hour of such meeting and shall contain the statement of business to be transacted therein.(iv)No proceeding of the Council shall be invalid merely by reason of existence of any vacancy. Member Secretary of the Council may request the members to send their suggestions to be included in the business of the meeting of the Council or any members may suo motu send the suggestions for inclusion of the same in the agenda of the meeting of the Council.(v)For the purpose of performing its functions under the Act, the State Council may constitute from amongst its members such working groups who shall perform such functions as are assigned to them by the State Council. The finding of such working groups shall be placed before the State Council.(vi)The non-official members shall be entitled to travelling allowance and daily allowance as may be decided by the State Government.(vii)[ The quorum of the meeting of State Council shall be  $\frac{1}{3}$ rd of the total members of the Council] [Inserted vide O.G.E. No. 1871 dated 6.10.2007.].

## 11. Constitution of District Consumer Protection Councils.

(1)The District Consumer Protection Council, hereinafter referred to, as the District Council shall comprise following members:(i)Collector of the district who shall be the Chairman of the District Council.(ii)Concerned Member of Parliament in the district or his representative.(iii)Concerned M.L.As; in the district or their representatives.(iv)President, Zilla Parishad or his representative.(v)Two Chairpersons of Panchayat Samitis in the district;(vi)All Chairpersons of Municipality or Notified Area Councils.(vii)Superintendent of Police or his representative (not below the rank of Deputy Superintendent of Police);(viii)Superintendent of Police, Vigilance or his representative (not below the rank of Deputy Superintendent of Police)(ix)Assistant Controller of Legal Metrology;(x)Market Intelligence Officer;(xi)Assistant Commercial Tax Commissioner or his representative.(xii)District Manager, Food Corporation of India.(xiii)District Co-ordinator, India Oil Corporation.(xiv)Representative of Orissa State Ware Housing Corporation.(xv)Representative of State Consumer Federation.(xvi)Civil Supply Officer.(xvii)District Consumer Protection Officer (Any Sub-Collector of the district Member-Secretary declared as such by Collector)(xviii)Two Women having interest in the field of Consumer Welfare to be nominated by the Collector.(xix)Two representatives from Scheduled Caste and Schedule Tribe category having interest in the field of consumer of Welfare to be nominated by the Collector.(xx)Ten members representing Trade, Industry, Press Persons, Social Worker, Farmers, Lawyers and Voluntary Consumer Organisations.(xxi)Persons capable of representing consumer interest not specified above who is working for the interest, welfare and advancement of consumer movement for about ten years not exceeding three members; and(xxii)One of the members of the District Forum.(2)The term of the District Council shall be three years from the date of its constitution.(3)[ \* \* \* ] [Deleted vide O.G.E. No. 1871 dated 6.10.2007.](4)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 up from the same category by the District Collector and such person shall continue to be the member for the remaining period of the term of the members whose place he fills up.(5)[ The members mentioned in clauses (ii) to (vi), (xv) and (xviii) to (xxi) of sub-rule (1) shall be treated as non-official members for the purpose of clause (vi) of rule, 12] [Inserted vide O.G.E. No. 1871 dated 6.10.2007.].

## **12. Procedure of the meeting of District Councils.**

- (i) The meeting of the District Council shall be presided over by the Chairman and in his absence Council shall elect a member present in the meeting to preside over that meeting of the Council.(ii)Each meeting of the District Council shall be called by giving notice of not less than ten days from the date of issue of the notice of the meeting in writing to each and every member.(iii)Every meeting of the Council shall specify the date, place, day and hour of such meeting and shall contain the transaction of business to be transacted therein. No proceeding of the Council shall be invalid merely because of existence of any vacancy. The Collector/ Chairman of the Council shall designate any Sub-Collector of the District to be District Consumer Protection Officer who will be the convenor of the meeting of the District Council. Convenor of the meeting shall have to submit action taken report on the suggestions of the previous meeting.(iv)The convenor of the District Council may request the members of the council to send their suggestions to be included in the business of the meeting of the Council or any member may suo motu send the suggestions for inclusion of the same in the agenda of the meeting of the Council.(v)For the purpose of performing its function under the Act the District Council may constitute from amongst its members such working groups who shall perform such function as are assigned to it by the Council. The finding of such working groups shall be placed before the District Council for its consideration and its implementation and to recommend to the State Government or/concerned authority to do the needful.(vi)The non-official members shall be entitled to travelling allowance and daily allowance as may be fixed by the State Government from time to time.(vii)The Collector shall inform the District Council the action taken on recommendations and suggestions given to fulfil the object and purpose of the Act and for the advancement and welfare of the consumers of the District.](viii)[ The quorum of the meeting of the District Council shall be  $\frac{1}{3}$ rd of the total members of the Council] [Inserted vide O.G.E. No. 1871 dated 6.10.2007.].