

Gujarat Consumer Protection Rules, 1988

GUJARAT

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Rule GUJARAT-CONSUMER-PROTECTION-RULES-1988 of 1988

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GSR/GTH/88/9/CPA/1287/1408/D, dated 18.2.1988Last Updated 6th June,

2019No./GSR/GTH/88/9/CPA/1287/1408/D. - In exercise of the powers conferred by sub-section (2) of section 30 of the Consumer Protection Act 1986 (68 of 1986) the Government of Gujarat hereby makes the following rules, namely:-

1. Short title and commencement.

(1)These rules may be called the Gujarat Consumer Protection Rules, 1988.(2)They shall come into force on the date of their publication in the Official Gazette.

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 authorised by a party to present any complaint, appeal or reply on its behalf before the State Commission or the District Forum;(c)"appellant" means a party which makes an appeal against the order of the District Forum;(d)"memorandum" means any memorandum of appeal filed by the appellant;(e)"opposite party" means a person who answers complaint or claim;(f)"President" means the President of the District Forum or the State Commission, as the case may be;(g)"respondent" means the person who answers any memorandum of appeal;(h)"section" means the section of the Act;(i)"State" means the State of Gujarat;(j)Words and other expressions used in these rules but not defined therein shall have the same meaning respectively assigned to them in the Act.

3. Salaries or honorarium and other allowances and other terms and conditions of service of the President and members of the District Forum under sub-section (3) of section 10.

- The President of the District Forum shall receive the salary of a District Judge if appointed on full time basis or an honorarium of Rs. 150 per day if appointed on part-time basis. Other members, if sitting on whole time basis shall receive, a consolidated honorarium of [Rs. 15,000] [Substituted 'Rs. 10,000' by Notification No. GTH/2014/38, dated 1.12.2014 (w.e.f. 18.2.1988).] per month and if sitting on part-time basis, a consolidated honorarium of Rs. 100 per day for the sitting. [Provided that in case where the retired District Judge is appointed as the President of the District Consumer Redressal Forum on or after 26/03/2013, he shall receive monthly salary on pay minus pension basis and other benefits as per Finance Department 's Resolutions No. PGR/102012/68/Pay Cell (P), dated 26/03/2013, No. PGR/102014/91/Pay Cell (P), dated 15/7/2014 and Resolution No. PGR/102014/92/Pay Cell (P), dated 18/10/2014. However, no temporary increase on pension shall be admissible to the re-employed pensioner during the currency of the appointment.] [Added by Notification No. GTH/2015/2/CPA/10/2013/489863/D, dated 15.1.2015 (w.e.f. 18.2.1988).](2)[(a) The President and of the District Consumer Redressal Forum shall, on official tours undertaken on or after 26/03/2013, be entitled to travelling allowance as per Finance Department's Resolution No. PGR/102012/68/Pay Cell (P), dated 26/03/2013.(b)The members of the District Consumer Redressal Forum shall be entitled to such travelling allowance and daily allowances, on official tours as are admissible to Class-II Officers of the State Government.](3)The salary or honorarium as the case may be, and other allowances shall be defrayed out of the Consolidated Fund of the State.(4)Before appointment, the President and each Member of the District Forum shall have to take an undertaking that he does not, and will not have any such financial or other interest as is likely to affect prejudicially his functions as the President or Member.(5)The State Government may remove from office, the President or any 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 the President or a Member, or(d)has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a Member, or(e)has so abused his position as to render his continuance in office prejudicial to the public interest :-(f)[has absented himself from three consecutive sitting of the District Forum without reasonable cause.] [Added by Notification No. GSP/GTH/94/4/CPA/1287/1408/D, dated 3.1.1995 (w.e.f. 18.2.1988).]Provided that the President or any Member shall not be removed from his office on the ground specified in clauses (d) and (e) of sub-rule (5) except on an inquiry held by the State Government in accordance with such procedure as it may specify in this behalf and finds the President or a Member to be guilty on such ground.(6)Where any vacancy occurs in the office of the President of the District Forum, the seniormost (in order of appointment) member of District Forum, 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 District Forum.(7)When the President of the District Forum is unable to discharge the functions owing to absence, illness or any other cause, the seniormost (in order of appointment) member of the District Forum shall discharge the functions of the President until the day on which the President resumes the charge of his functions.(8)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 has 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.(9)The terms and conditions of the service of the President and the Members of the District Forums shall not be varied to their disadvantage during their tenure of office.

4. Procedure to be adopted by the District Forum for analysis and testing of the goods.

(1) For the purpose of analysis or test, the District Forum shall obtain from the complainant a sample of the goods in clean, dry container with tight stopper, cover or lid properly fixed on them. If necessary the District Forum may direct the complainant to provide more than one sample of the goods. (2) After obtaining the sample of the goods under sub-rule (1), the District Forum shall carefully seal the stopper, cover or lid of the container by means of sealing wax and affix label on the container which shall bear-(i) the name and address of the appropriate laboratory to which the sample is to be sent for analysis or test; (ii) the name and address of the District Forum; (iii) the nature of the goods kept in the sealed container; (iv) the case number and date; and (v) the seal of the District Forum. (3) The container shall then be completely wrapped in fairly strong pack paper and the ends of the paper shall be neatly folded and affixed by means of gum or other adhesive. A slip of the size that goes round from the bottom to the top of the container bearing the signature of such persons as may be authorised by the District Forum in this behalf for the purpose of authentication of the sample and the case number shall be pasted on the wrapper. (4) The wrapper shall be further secured by means of strong twine or thread or both above and across the container and the knots of the twine or thread shall be fastened on the wrapper by means of a sealing wax on which there shall be at least four distinct and clear impressions of the seal of the District Forum.

5. Place of sitting, conduct of meeting and other matters relating to District Forum.

(1) The office of the District Forum shall be located at the head quarter of the District. Where State Government decides to establish a single District Forum having jurisdiction over more than one district, it shall by notification in the Official Gazette, specify the place and the jurisdiction to the District Forum so established. (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) Sitting of the District Forum, as and when necessary, shall be convened by the President. (5) No act or proceedings of the District Forum shall be invalid by reason only of the existence of any vacancy among its members or any defect in its constitution. (6) The 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. The salary payable to such staff shall be defrayed out of the Consolidated Fund of the State. (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 document present before it. (8) If during the proceedings conducted under section 13, the District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and the opposite party or their respective authorised agents to appear before the District Forum on the 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 fails 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 one adjournment shall ordinarily be given and the complaint shall be decided within 90 days from the date of notice received by the opposite party where the complaint does not require analysis or testing of the goods and within 150 days, if it requires analysis or testing of the goods.(10)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.

6. Procedure for hearing appeal.

(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 in the form appended to these rules.(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 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 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 the official purpose.(6)On the date of hearing or on any other day to which hearing may be adjourned, it shall be obligatory for the parties or their authorised agent to appear before the State Commission. If appellant or his authorised agents fails to appear on such date, the State Commission may, in its discretion, either dismiss the appeal or decide it on merit of the case. If respondent or his authorised agent fails to appear on the such date, the State Commission shall proceed ex parte and shall decide the appeal ex parte on merits of the case.

7. Salary or honorarium and other allowances and terms and conditions of the President and members of the State Commission.

(1)The President of the State Commission shall receive the salary of the Judge of the High Court if appointed on whole-time basis or consolidated honorarium of Rs. 200 per day for the sitting if appointed on part-time basis. Other members, if sitting on whole-time basis, shall receive a consolidated honorarium of [Rs. 20,000] [Substituted 'Rs. 15,000' by Notification No. GTH/2014/38, dated 1.12.2014 (w.e.f. 18.2.1988).] per month and if sitting on part-time basis, a consolidated honorarium of Rs. 150 per day for the sitting.[Provided that in case where a person, as provided under clause (b) and explanation thereunder of sub-section (1) of section 16 of the Consumer Protection Act, 1986 is appointed as the full time Judicial Member of the State Consumer Redressal Commission on or after 26/03/2013, he shall receive monthly salary and other benefits as per Finance Department's Resolutions No. PGR/102012/68/Pay Cell (P), dated 26/03/2013, No. PGR/102014/91/Pay Cell (P), dated 15/7/2014 and No. PGR/102014/92/Pay Cell (P), dated 18/10/2014. However, no temporary increase on pension shall be admissible to the re-employed

pensioner during the currency of the appointment.] [Added by Notification No. GTH/2015/30/CPA/102013/480323/D, dated 22.12.2015 (w.e.f. 18.2.1988).](2)[(a) The President of the State Consumer Redressal Commission shall be entitled to such travelling allowance and daily allowance, on official tours, as are admissible to Hon'ble High Court Judge.(b)The Judicial member of the State Consumer Redressal Commission shall be entitled to such travelling allowance and daily, on official tours, as are admissible under Finance Department's Resolution No. PGR/102012/68/Pay Cell (P), dated 26/03/2013.(c)The Non Judicial member of the State Consumer Redressal Commission shall be entitled to such travelling allowance and daily allowance, on official tours, as are admissible to the Class I officer of the State Government.](3)The salary or honorarium as the case may be and other allowances shall be defrayed out of the Consolidated Fund of the State.(4)The President and the member of the State Commission shall hold office for a term of five years or upto the age of [1] 70 years whichever is earlier and shall not be eligible for renomination :Provided that the President and the Member may-(a)by writing under his hand and addressed to the State Government resign his office any time;(b)be removed from his office in accordance with provisions of sub-rule (5);(5)The State Government may remove from office, the 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 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 effect prejudicially his functions as the President or a Member, or(e)has so abused his position as to render his continuance in office prejudicial to the public interest; Provided that the President or a member shall not be removed from his office on the ground specified in clauses (d) and (e) of the sub-rule (5) except on an inquiry held by State Government in accordance with such procedure as it may specify in this behalf and finds the members to be guilty of such ground.(6)Before appointment the President and a Member of the State Commission shall have to take 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 such member.(7)The terms and conditions of the service of the President and the members of the State Commission shall not be varied to their disadvantage during their tenure of office.(8)Every vacancy caused by resignation and removal of the President or any other member of the State Commission under sub-rule (4) or other wise shall be filled by fresh appointment.(9)Where any such vacancy occurs in the office of the President of the State Commission, the senior most (in order of appointment) 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 the charge of his functions.(11)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 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.

8. Place of sitting, conduct of meeting and other matters relating to State Commission.

(1)Office, of the State Commission shall be located at [1] Ahmedabad.(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)No act or proceeding of the State Commission shall be invalid by reason only of the existence of any vacancy among its members or any defect in its constitution.(6)The 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.(7)Where the opposite party 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.(8)If during the proceedings conducted under section 13, the State Commission fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party or his authorised 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 authorised 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 it on merits. Where the opposite party or its authorised agent fails to appear on the day of hearing the State Commission may decide the complaint ex parte.(9)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 where complaint does not require analysis or testing of the goods and within 150 days if it requires analysis or testing of the goods.(10)Orders of the State Government 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.

Form See Rule 6 Appeal under section 15 of the Consumer Protection Act, 1986 To The President Consumer Disputes Redressal Commission Gandhinagar

Name of Appellant

Full address of the appellant

Number and date of the order against which the appeal is made

Date of receipt of such order by the appellant

Whether appeal is made in time?

If not the reason therefor may be stated

(1)A certified copy of the order appealed against is attached hereto.(2)Statement of facts of the case (If necessary attach a separate sheet of paper).(3)The appellant has not preferred any appeal against the aforesaid order, before any authority, at any time.(4)Enter here the ground relied of the purpose of this appeal. (If necessary attach a separate sheet of paper)(5)The appellant, therefore, prays.....The appellant..... named above, does hereby declare that what is stated herein is true to the best of his knowledge and

belief. Signature (To be signed by the appellant or by agent duly authorised in writing in this behalf by the appellant) Dated the day of

.....19.....[Substituted by Notification No.

GTH/2015/30/CPA/102013/480323/D, dated 22.12.2015 (w.e.f. 18.2.1988).][Substituted by

Notification No. GTH/2015/2/CPA/10/2013/489863/D, dated 15.1.2015 (w.e.f. 18.2.1988).]