

Kerala Consumer Protection Rules, 1998

KERALA

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Rule KERALA-CONSUMER-PROTECTION-RULES-1998 of 1998

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Kerala Consumer Protection Rules, 1998Published vide Notification No. S.R.O. No. 566/98, dated 5.6.1998S.R.O. No. 566/98. - In exercise of the powers conferred by sub-section (2) of section 30 of the Consumer Protection Act, 1986 (Central Act 68 of 1986) and in supersession of the Consumer Protection (Kerala) Rules, 1987, published under Notification No. 377/C1/87/F&CSD dated the 16th October, 1987 as S.R.O. No. 1373/87 in the Kerala Gazette Extraordinary No. 822 dated the 16th October, 1987, as subsequently amended, the Government of Kerala hereby make the following Rules, namely: -

1. Short title and commencement.

(1)These rules may be called the Kerala Consumer Protection Rules, 1998.(2)They shall come into force at once.

2. Definitions.

- In these rules, unless the context otherwise requires, -(a)"Act" means the Consumer Protection Act, 1986;(b)"Agent" means a person duly authorized by a party to present any complaint, appeal or revision or other petition or reply on his/her behalf before the State Commission or the district Forum;(c)"Appellant" means a party who makes an appeal against the order of District Forum;(d)"Government" means the Government of Kerala;(e)"Memorandum" means memorandum of appeal filed by the appellant;(f)"Opposite party" means a person who has to answer a complaint or a claim;(g)"President" means the President of the State Commission or the District Forum, as the case may be;(h)"Respondent" means a person who has to answer any memorandum of appeal;(i)"Section" means a section of the Act;(j)"State" means the State of Kerala;(k)Words and expressions used but not defined in these rules, but defined in the Act, shall have the meanings, respectively assigned to them in the Act.

3. Composition of the State Consumer Protection Council.

(1)The Consumer Protection Council for the State of Kerala established under section 7 of the Act, (hereinafter referred to as the State Council) shall consist of the following members, namely: -
(a)The Minister in-charge of Consumer Affairs in the State of Kerala who shall be the Chairman;
(b)Ten members of the Kerala Legislative Assembly, nominated by the Government;
(c)Five representatives of the Government Departments and Under taking concerned with consumer interest, nominated by the Government;
(d)Seven representatives of the Consumer Organizations in the State, seven nominated by the Government, of whom three shall be women;
(e)Five representative of farmers, manufactures, traders and industrialists, five nominated by the Government;
(f)Five representatives of the recognized trade unions of the State nominated by the Government;
(g)Three persons capable of representing consumer interests in the State other than those specified above, three nominated by the Government;
(h)The commissioner of Civil Supplies-ex-officio;
(i)The Secretary to Government of Kerala, Food and Civil Supplies Department-ex-officio;
(j)The Director of Civil Supplies, Kerala-ex-officio;
(k)The Secretary, Consumer Disputes Redressal Commission-ex-officio;
(l)The additional Secretary to Government, Food and Civil Supplies Department, who shall be the Member Secretary of the State Council.
(2)The term of office, of the nominated members shall be three years from the date of their nomination of such member.
(3)Any nominated member may, by writing under his hand addressed to the Chairman of the State Council, resign his office. Any casual vacancy that may arise due to resignation or otherwise of such a member shall be filled from among the same category and such person in whose place he was nominated.

4. Procedure for the meetings of the State Council.

- The State Council shall observe the following procedure with regard to the transaction of its business; -
(1)Every meeting of the State Council shall be convened by the Member Secretary, in accordance with the directions of the Chairman;
(2)The meetings of the State Council shall be presided over by the Chairman. In the absence of the Chairman, the members present shall elect a person from among themselves to preside over that meeting.
(3)The quorum for a meeting of the State Council shall be ten.
(4)Every meeting of the State Council shall be called only after giving not less than seven days notice in writing of the date of meeting, to each member: Provided that a meeting of the State Council may be convened with less than seven days notice if the circumstances so warrant. However each member shall be informed of the date, time and place of meeting sufficiently early so that he could attend the same.
(5)Every notice of the meeting of the State Council shall specify the place, date and hour of the meeting and shall contain a statement of the business to be transacted thereof.
(6)No proceedings of the State Council shall be invalid merely by reason of the existence of any vacancy in, or any defect in the constitution of the Council.
(7)For the purpose of performing its function under the Act, the State Council may constitute, from amongst its members, such working groups as it may deem necessary and each such working group so constituted shall perform such functions as are assigned to it by the State Council, for its consideration.
(8)The resolutions passed by the State Council shall be recommendatory in nature.
(9)The non-official members other than the members of the Legislative Assembly shall be eligible for traveling allowance and daily allowance for attending the meetings of the State Council as are admissible to

Class I Officers of the State Government. Members of the State legislative Assembly shall be entitled to traveling and daily allowances at such rates as are admissible to term under the Payment of Salaries and Allowance Act (14 of 1951). On receipt of a claim, the Secretary of the State Commission shall make payment of traveling allowance to non-official members from the Traveling Allowance Head of Account of the Consumer Disputes Redressal Commission.

5. Location of office and other matters relating to State Commission.

(1), The Office of the State Commission shall be at Thiruvananthapuram.(2)The working days and office hours of the Office of the State Commission shall be the same as that of the Offices of the State Government.(3)The Official seal and emblem of the State Commission shall be such as the Government may specify.(4)The President of the State Commission shall be the Head of Office and shall have administrative control over the staff of the State Commission and for a and shall have disciplinary control over the staff subject to the provisions contained in rule 19 of the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.(5)Sittings of the State Commission shall be convened by the President. The sittings shall ordinarily be at the Office of the State commission; provided however that sitting may also be convened at other centres also according to necessity.(6)The State Government shall appoint such staff, as may be necessary, to assist the State Commission in its day-to-day work and perform such other functions as are provided under the Act of these rules or assigned to them by President.(7)Where the opposite party admits the allegations made by the complainant in a complaint filed before it, the State Commission shall decide the complaint on the basis of the merit of the case, based on the documents presented before it.(8)If during the proceedings conducted under section 13 of the Act, the State commission fixes a date for hearing of the parties, it shall be obligatory on the part of the complainant and the opposite party or their authorized agent to appear before the State commission on such date or on any other date to which the hearing stands adjourned. When the complainant or his authorized agent fails to appear before the State commission on such date, the State Commission may, in its discretion, either dismiss the complaint for default or decide it on merits. Where the opposite party or his authorized 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 three adjournments shall ordinarily be given, and complaint shall be decided within 90 days from date of receipt of notice by the opposite party, where the complaint does not require analysis or testing of the goods and within 150 days, if analysis or testing of goods is required.

6. Salary, honorarium and other allowances and the terms and conditions of appointment of the President and members of the State Commission.

(1)The President of the State Commission shall be entitled to salary, allowances and other perquisites as are admissible to a sitting Judge of the High Court, if appointed on whole-time basis or to an honorarium of Rs. 500 per day for each sitting if appointed on part-time basis the other members, if appointed on whole time basis, shall receive a consolidated honorarium of Rs.10, 000 per month or if appointed on part-time basis, an honorarium of Rs.400 per day for each sitting.(2)The President shall be entitled to traveling and daily allowance for the official tour

conducted by him at the same rates as are admissible to a sitting Judge of the High Court.(3)The other members of the State Commission shall be entitled to traveling and daily allowances for the official tour conducted by them at the same rates as are admissible to a Class I Officer of the State Government. The members who are required to travel within a short distance, which do not render them eligible for daily allowances, shall receive a monthly conveyance allowance of Rs. 1500. The members who are separately entitled to any other kind of Travelling Allowance or Dearness Allowance or provided with departmental vehicle shall not be eligible for conveyance allowance. Conveyance allowance shall not be drawn during leave or holidays prefixed or suffixed to leave. Conveyance allowance shall not be drawn for the days for which regular Travelling Allowance or Dearness Allowance is drawn.(4)The President, who is not a sitting Judge of the High Court, and a member 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 or rule 7.(5)Before appointment, the President and each member of the state Commission shall have to make a declaration to the effect that he does not have any financial or other interests as is likely to affect prejudicially his functions as the President or as such member.(6)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.(7)A casual vacancy, caused by the resignation or removal or otherwise, of the President or any member of the State Commission shall be filled by fresh appointment.

7. Removal of President or Members from office in certain circumstances.

- the Government may remove from office, the President, who is not a sitting Judge of the High Court, or any member of the State Commission who,-(a)Has been adjudged as 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 the President or as such member; or(d)Has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or as such member; or(e)Has so abused his position as to render his continuance in office prejudicial to public interest:Provided that the President or a member shall not be removed from his office on the grounds specified in clauses (d) and (e) unless such grounds have proved on an inquiry held by the Government, in accordance with such procedure, as it may specify in this behalf.

8. The location of office and other matters relating to District Forum.

(1)The office of the District Forum shall be at the headquarters of the respective District or at such other places as may be notified by the Government. Where the Government decide to establish more than one District Forum in a District, it shall notify the headquarters and jurisdiction of each such District Forum, so established.(2)The working days and the office hours of the Office of a District Forum shall be the same as that of the Offices of the State Government.(3)The Official seal and emblem of the district Forum shall be such as the Government may specify.(4)The President shall be the head of office of the District Forum and shall have administrative control subject to the provisions contained in rule 19 of the Kerala Civil services (Classification, Control and Appeal) Rules, 1960, shall have disciplinary control over the staff.(5)The sittings of a District Forum shall be

convened by the President. The sittings shall ordinarily be at the office of the District Forum provided however that sitting may also be convened at such other places also if necessary warrants.(6)The State Government shall appoint such staff, as may be necessary, to assist the District Forum in its day to day work and to perform such other functions as are provided under the Act or these Rules or assigned to them by the President.(7)While entertaining a complaint under section 13, if the opposite party admits the allegation made by the complainant, the District Forum shall decide the complaint on the basis of the merits of the case based on the documents presented before it.(8)If a District Forum, either suo motu or on the application of a party finds that it is not proper to try any complaint filed before it, the President or the Forum shall report the matter, giving reasons for the same, to the President of the State Commission for transfer of the case to some other District Forum in the State and the President of the State Commission shall pass appropriate orders on such requisition.(9)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 to their authorized agents to appear before the District Forum on such date or any other date to which the hearing stands adjourned. Where the complainant or his authorised agent fails to appear before the District Forum on such date, the District Forum 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 District Forum may decide the complaint ex-parte.(10)While proceeding under sub-rule (9) 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 three adjournments shall, ordinarily, be given and the complaint should be decided within 90 days from the date of receipt of notice 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.

9. Salary, honorarium and other allowances and terms and conditions of the President and members of the District Forum.

(1)The President of a District Forum shall be entitled to salary and allowances at the following rates, namely: -

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| (a) If he is sitting District Judge | Same salary and allowances to which he is entitled to as District Judge. |
| (b) If he is a person qualified to be appointed as District Judge and is appointed - | Minimum of the pay in the scale of pay admissible to the District Judge plus allowances attached thereto. |
| (i) On full time basis | |
| (ii) on part-time basis | An honorarium of Rs.400 per day for each sitting. |
| © if he is a retired District Judge, appointed on full time basis | Minimum of the pay and allowance in the scale of pay of the District Judge, less the amount of pension including dearness relief to which he is entitled to or the salary and allowances prescribed under rule 100 of Part III of the Kerala Service Rules or an honorarium of Rs.7500 per month, whichever is higher. |

(2)The other members of the District Forum, if appointed as full time members, shall be entitled to a consolidated honorarium of Rs.6500 per month. If appointed as part-time members, they shall be entitled to an honorarium of Rs.300 per day for each sitting.(3)The President of District Forum, if appointed on full time basis, shall be entitled to the leave admissible to the District Judge as per the Kerala Service Rules.(4)The President who is not a sitting judge of the District Court, 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 Rule 10(5)Before appointment, the President and members of a District Forum shall make a declaration to the effect that he does not have any financial or other interest as is likely to affect prejudicially his functions as the President or as such member.(6)The terms and conditions of services of the President and the members shall not be varied to their disadvantage during their tenure of office.(7)A casual vacancy in the District Forum caused by the resignation or removal or otherwise of the President or any members shall be filled by fresh appointment.(8)The President or any member ceasing to hold office as such shall not hold any appointment in or connected with the management or administration of any organization, which have 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.

10. Removal of the President or members from office in certain circumstances.

- The Government may remove from office, the President, who is not a sitting judge of a District Court or a member of a District Forum who-(a)Has been adjudged as 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 the President or as such member; or(d)Has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or as such member; or(e)Has so abused his position as to render his continuance in office prejudicial to public interest:Provided that the President or a member shall not be removed from his office on the grounds specified in clauses (d) and (e) unless such grounds have been proved on an inquiry held by Government in accordance with such procedure as it may specify in this behalf.

11. Procedure to be followed by the District Forum and the State Commission for authentication of the goods obtained for analysis.

(1)The District Forum or as the case may be, the State Commission, if consider necessary, Direct the complainant to provide more than one samples of the goods in clean containers with stopper properly fixed on them.(2)On receipt of the samples of such goods, the District Forum or, as the case may be, the State Commission shall seal it and fix labels on the containers carrying the following information:-(i)Name and address of the appropriate laboratory to which sample shall be sent for analysis and test;(ii)Name and address of the District Forum or, as the case may be, the State Commission;(iii)Case number; and(iv)Seal of the District Forum or as the case may be, the State Commission.(3)After specifying the nature of the defect alleged, the sample shall be sent to the appropriate laboratory by the District Forum or as the case may be, the State Commission with a request to send the report within 45 days from the date of receipt of the same or within such

extended time, as may be granted by the District Forum or, as the case may be, the State Commission.

12. Forum and manner of appeal memorandum.

(1)The memorandum of appeal shall be resented by the appellant or his authorized agent to the State Commission in person or shall be sent by registered post addressed to the President of the State Commission.(2)Every memorandum of appeal filed under sub-rule (1) shall be legible, preferably typed and shall set forth concisely under distinct heads the grounds of appeal, without any argument or narration; and the grounds shall be numbered consecutively.(3)Each memorandum of appeal shall be accompanied by a certified copy of the order of the District Forum appealed against and such other documents as may be required in support of the grounds or objections mentioned in the memorandum.(4)When the appeal is presented after the expiry of the period of Limitation as specified in the Act, the memorandum shall be accompanied by an application to condone the delay, supported by an affidavit setting forth the facts on which the 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 of appeal to the State Commission for official purposes with additional copies of memorandum equivalent to the number of respondent. The appellant shall also submit additional copies of documents if so required by the Commission.(6)On the date of hearing or on any other day to which hearing stands adjourned, it shall be obligatory for the parties or their authorized agent 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 merits of the case. If the respondent or his authorised agent fails to appear on such date, the State Commission shall decide the appeal ex parte on the 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 objection not set forth in the memorandum of appeal but the State Commission, in deciding the appeal, may not confine to the grounds of objection set forth in the memorandum of appeal or taken by leave of the State Commission under this rule. Provided that the State Commission shall not rest any decision on any other grounds unless the party who may be affected thereby, has been given, at least an opportunity of being heard by the State Commission.(8)The State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of the appeal, but not more than three adjournments shall, ordinarily, be given and the appeal shall be decided within 90 days from the first date of hearing.(9)The orders of the State Commission on complaint appeal, revision or other petitions shall be signed and dated by the President and the members of the State Commission constituting the Bench and shall be communicated to the parties free of charges.