

# Jammu and Kashmir Consumer Protection Rules, 1987

JAMMU & KASHMIR

India

## Jammu and Kashmir Consumer Protection Rules, 1987

### Rule

### JAMMU-AND-KASHMIR-CONSUMER-PROTECTION-RULES-1987 of 1987

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Jammu and Kashmir Consumer Protection Rules, 1987Published vide Food and Supplies Department Notification SRO-86 dated 10th March, 1988In exercise of the powers conferred by section 24 of the Jammu and Kashmir Consumer Protection Act, 1987 (Act No. XVI of 1987), the Government hereby make the following rules, namely:

#### 1. Short title and Commencement.

(1)These rules may be called the Jammu and Kashmir Consumer Protection Rules, 1987.(2)[ They shall come into force from the date of commencement of the Act.] [Substituted by SRO-380 dated 14.12.1988.]

#### 2. Definitions.

- In these rules, unless the context otherwise requires(a)"Act" means the Jammu and Kashmir Consumer Protection Act, 1987;(b)"Agent" means a person duly authorised by a party to present any complaint, appeal or reply on its behalf before the State Commission;(c)"Appellant" means a party which makes an appeal against the order of the Divisional Forum;(d)"Chairman" means the Chairman of the State Consumer Protection Council established under section 4 of the Act;(e)"Memorandum" means any memorandum of appeal filed by the appellant;(f)"Opposite party" means a person who answers complaint or claim;(g)"Respondent" means a person who answers any memorandum of appeal;(h)"Section" means section of the Act;.(i)Words and expressions used in the rules but not defined herein shall have the same meanings as assigned to them in the Act.

### 3. The Constitution of the State Consumer protection Council.

(1) The Government may, by notification in the Government Gazette, establish the State Consumer Protection Council which in addition to the Chairman shall consist of the following members namely:

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| (a) The Minister of State Food and Supplies Department                               | Vice-Chairman.    |
| (b) One member from Legislative Assembly and 2 from Legislative Council.             | Members.          |
| (c) 3 Representatives of autonomous organisation concerned with consumer interests.  | Members           |
| (d) 3 Representatives of the Consumer Organisation or consumers.                     | Members           |
| (e) 2 Representatives of Women   | Members           |
| (f) 3 Representatives of farmers, traders and industrialists; one from each category | Members           |
| (g) 3 Persons capable to represent consumer interests not specified above.           | Members           |
| (h) The Secretary to Government, Food & Supplies Department.                         | Member-Secretary. |

### 4. Procedure of the State Council.

(1) The State Council shall observe the following procedure in regard to the transaction of its business: (a) The meeting of the State Council shall be presided over by the Chairman, in his absence by the Vice-Chairman, in the absence of the Chairman and the Vice-Chairman the Council shall elect a member to preside over the meeting. (b) Each meeting of the State Council shall be called by giving not less than 10 days notice in writing to every member. (c) The notice shall specify the place, the day, hour and statement of business to be transacted thereat. (d) No proceedings of the State Council shall be held invalid merely by reasons of any vacancy or defect in the constitution of the Council. (e) For the purpose of performing its functions under the Act, the State Council -may constitute from amongst its members such working groups as it may deem necessary and every working group so constituted shall perform such functions as are assigned to it by the State Council. The findings of such working groups shall be placed before the State Council for its consideration. (f) The non-official members shall be entitled to A Class to and fro bus fare and an allowance of one hundred rupees per day for attending the meetings of the State Council or any working group. Members of Legislature shall be entitled to travelling and daily allowances at such rates as are admissible to such members under the Salaries and Allowances of Members of Jammu and Kashmir State Legislature Act, 1966. The resolution passed by the State Council shall be recommendatory in nature.

### 5. Term of office of the State Council.

- (i) The term of the office members shall be three years. (ii) Any member may, in writing under his hand addressed to the Chairman of the State Council, resign from the Council. The vacancies, so caused or otherwise, shall be filled up from the same category by the Government and such member shall hold office so long as the member in whose place he is appointed would have been entitled to hold office had the vacancy not occurred.

## **6. The salary or honorarium and other allowance payable to the members of the Divisional Forum.**

- (i) Under sub-section (3) of section 8 where the President of the Divisional Forum is a sitting judge of the Sessions Court, he shall enjoy all the benefits which he should have enjoyed as sitting judge of the Sessions Court. Where the President is not a sitting judge of the Sessions Court, he shall receive an honorarium equivalent to the amount of salary as he was drawing at the time of his retirement minus the pension per month. Other members, if sitting on whole time basis, shall receive a consolidated honorarium of [Rs. 6000/- per month plus conveyance allowance of Rs.1000/- per month, subject to the condition that the members are not provided conveyance facilities Departmentally or at the cost of the Government/Semi-Government] [Substituted for "Rs. 4000 per month" by SRO 346, dated 29.01.2009.] or if sitting on part-time basis, a consolidated honorarium of Rs. 50/- per day sitting. [(i-a) In case of such members as are retired Government servants and sitting on whole-time basis, the pension plus honorarium shall not exceed last pay drawn at the time of retirement.] [Inserted by SRO 196, dated 24-6-1998.] (ii) The President and the members shall be entitled to travelling and daily allowances on official tours at the same rates as are admissible to [Class-I] [Substituted by SRO-389 dated 6.10.1989.] Officers of the Government.

## **7. Terms and Conditions or Service of the President and members of the Divisional Forum.**

- (i) Prior to appointment, the president and the members of the Divisional Forum shall have to give an undertaking to the effect that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as such. (ii) The President and the members shall hold office for a period not exceeding 5 years or up to the age of 62 years whichever is earlier, but shall not be eligible for re-appointment. (iii) Notwithstanding anything contained in sub-rule (ii) the president or a member may; (a) by writing under his hand addressed to the Government resign his office at any time; (b) be removed from his office in accordance with the provisions of rule 13. (iv) The terms and conditions of service of the President and the members shall not be varied to their disadvantage during their tenure of office. (v) A casual vacancy caused by resignation or removal of the President or any member of the Divisional Forum shall be filled by fresh appointment. (vi) Where any such casual vacancy occurs in the Office of the President of the Divisional Forum, the senior most member (in order of appointment) 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 Divisional Forum. (vii) When the President of the Divisional Forum is unable to discharge the functions owing to absence, illness or any other cause, the senior most member (in order of appointment) shall discharge the functions of the President until the day on which the president resumes the charge of his functions. (viii) No act or proceeding of the Divisional Forum shall be held invalid by reason of any vacancy of its President or Member or any defect in the constitution thereof. (ix) In case of a difference of opinion among the members of the Divisional Forum, the opinion of the majority shall prevail. (x) 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 proceedings under the Act

during his tenure for a period of 5 years from the date on which he ceases to hold such office.

## **8. Manner prescribed under clause (c) of Section 11(1).**

(1) Samples of goods for test or analysis shall be sent by the Divisional Forum by registered post in a sealed packet, enclosed, together with a memorandum in Form-1, in a outer cover addressed to the (2) The packet as well as the outer cover, shall be marked with a distinguishing number. (3) A copy of the memorandum in Form 1 and a specimen impression of the seal used to seal the packet shall be sent separately by registered post to the (4) On receipt of the packet it shall be opened by an officer authorised in writing in that behalf by the who shall record the condition of the seal on the packet. (5) After test or analysis, the result of the test or analysis, together with full protocols of the tests applied shall be supplied forthwith to the Divisional Forum, in Form 2.

## **9. Procedure of the Divisional Forum.**

- (i) Under sub-section (3) of section (12) of the Act, the Office of the Divisional Forum shall be located in two divisions i.e. Jammu/Kashmir. working days and office hours of the Divisional Forum shall be the same as that of the State Government. (ii) The Divisional Forum shall observe the following procedure in regard to the transaction of its business. (iii) The meeting of the Divisional Forum shall be presided over by the President. In his absence the senior most member (in order of appointment) shall preside over the meeting. (iv) Each meeting of the Divisional Forum shall be called by giving not less than 10 days' notice in writing to every member. (v) The notice shall specify the place, the day, hour and statement of business to be transacted thereat.

## **10. Procedure for hearing the appeal.**

- (i) Under section 13 of the Act memorandum shall be presented by the appellant or his agent to the State Commission in person or be sent by registered post addressed to the commission. (ii) 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 grounds shall be numbered consequentially. (iii) Each memorandum shall be accompanied by a certified copy of the order of the Divisional Forum appealed against and such of the documents as may be required to support grounds of the memorandum. (iv) When the appeal is presented after the expiry of the period of limitation as specified in the Act, the memorandum of appeal shall be accompanied by an application 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. (v) The appellant shall submit six copies of the memorandum of appeal to the Commission for official purpose. (vi) 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 agents to appear before the State Commission. If appellant or his agent fails to appear on such date, the State Commission may, on its discretion, either dismiss the appeal or decide ex-parte on merits. If the respondent or his agent fails to appear on such date, the State Commission shall proceed ex-parte and shall decide the appeal on merits of the case. (vii) The appellant shall not, except by leave of the State Commission, argue or be heard in support of any objection not set forth in the memorandum

but the State Commission, while deciding an appeal, may not confine to the grounds of objection set forth in the memorandum: Provided that the Commission shall not rest its decision on any other ground other than those specified in memorandum unless the party who may be affected thereby, has been given, an opportunity of being heard by the State Commission. (viii) The State Commission, on such terms as it may think fit and at any stage, adjourn the hearing of the appeal, but not more than one adjournment shall ordinarily be given and the appeal should be decided as far as possible, within 90 days from the first date of hearing. (ix) The order of the State Commission on appeal shall be signed and dated by the members of the State Commission and shall be communicated to the parties free of charge.

## **11. Salaries honorarium and other allowances of the President and Members of the State Commission.**

- (i) Where the President of the State Commission is a Sitting Judge of the Hon'ble High Court, he shall enjoy all the benefits which he should have, enjoyed as sitting judge of the Hon'ble High Court where the President not a Sitting Judge of High Court. He shall receive [a salary of [eighty thousand ] [Substituted by SRO-160 dated 11-05-2001.] rupees per mensem: Provided that the amount of pension and commuted portion of pension shall be deducted from such salary.] Other members, if sitting on whole time basis, shall receive a consolidated honorarium of [Rs. 7,500/- per month plus conveyance allowance of Rs.1000/- per month, subject to the condition that the members are not provided conveyance facilities Departmentally or at the cost of the Government/Semi-Government] [Substituted for Rs. "6000/- per month" by SRO 346, dated 29.01.2001. ] or if sitting on part time basis, a consolidated honorarium of Rs. 100/- per day per sitting. [(i-a) In case of such members as are retired Govt. servants and sitting on whole-time basis, the pension plus honorarium shall not exceed last pay drawn at the time of retirement.] [Inserted by SRO 196, dated 24-6-1998.] (ii) The President and the members shall be entitled to travelling and daily allowances on official tours at the same rates as one admissible to Class-I officer of the Government. (iii) The honorarium or the salary, as the case may be, and other allowances shall be defrayed out of the contingency fund of the Govt.

## **12. Terms and conditions of service of the President and the members of the State Commission.**

- (i) Prior to their appointment, the president and the members of the State Commission shall have to give an undertaking to the effect that he does not and will not have any financial or other interests as is likely to affect prejudicially his function as such. (ii) [ The President and the members shall hold office for a term of five years from the date on which he enters upon his office, or such term as may be specified by the Government in the notification: [Substituted by SRO-24 dated 6-2-1995.] Provided that nothing here in above shall apply to members appointed before the issue of this notification] (iii) Notwithstanding anything contained in sub-rule (ii) the President or a member may: (a) by writing under his hand addressed to the Government resign his office at any time; (b) be removed from his office in accordance with the provisions of rule 13. (iv) The terms and conditions of service of the President and the member shall not be varied to their disadvantage during their tenure of office. (v) Any casual vacancy caused by resignation or removal of the President or any

other member of the State Commission under sub-rule (3) or otherwise shall be filled of by fresh appointment.(vi)Where any such casual vacancy occurs in the Office of the President of the State Commission, the senior-most member (in order of appointment) 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.(vii)When the President of the State Commission is unable to discharge the functions owing to absence, illness or any other cause, the senior most member (in order of appointment) shall discharge the functions of the President until the day on which the President resumes the charge of his functions.(viii)No act or proceedings of the State Commission shall be held invalid by reason of any vacancy of its President or members or any defect in the constitution thereof.(ix)In case of any difference of opinion among the member of the State Commission, the opinion of the majority shall prevail.(x)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 proceedings under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

### 13. Removal of President or members from office in certain circumstance.

(1)The Government may remove from office, the President or any member 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 the President or the member; or(d)has acquired such financial or other interests 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 persistently made default in the performance of functions imposed on him by or under the Act] [Clause (f) inserted by SRO 253 dated 17-11-1992.](2)Notwithstanding anything contained in sub-rule (1) the President or any member shall not be removed from his office on the grounds specified in clauses (d) and (e) of sub-rule except on an inquiry held by the Government in accordance with such procedure as it may specify in this behalf.

Notifications, Circulars, Orders, Etc.Consumer Protection Act, 1987  
Reconstitution of State Consumer Protection Council (State Council)SRO 08, dated 07.01.2010,  
Consumer Affairs and Public Distribution DepartmentIn exercise of the powers conferred by section 4 of the Jammu & Kashmir Consumer Protection Act, 1987 read with rule 3 of the Jammu and Kashmir Consumer Protection Rules, 1987 and in supersession of Notification SRO 215 dated 18th June, 2007, the Government hereby re-constitutes the State Consumer Protection Council (State Council), as under namely:-

1	Hon'ble Minister In-charge Consumer Affairs and PublicDistribution Department	Chairman
2	Hon'ble Minister of State for Consumer Affairs and PublicDistribution Department	Vice-Chairman
	Member of Legislative Assembly	
1	Chowdhary Mohammad Ramzan	Member
	Member of Legislative Council	
1	Shri Ravinder Sharma	Member

2 Shri Showkat Chowdhary	Member
Representatives of Autonomous Organization	
1 Shri Vikram Gour, Member Consumer Association	Member
2 Shri D.R. Danish, President Consumer Protection Organization, Jammu	Member
3 Shri Masood Advocate, RIO Rajouri	Member
Representatives of Consumer. Organizations or Consumers	
1 Shri Mani Ram Abrol, consumer Activist	Member
2 Shri B.B. Raina, Member Association of Small Scale Industries, Gangyal	Member
3 Yashpal Gupta, President, Federation of Retailer Association, Jammu.	Member
Representatives of Women	
1 Smt. Laxmi Dutta R/o Paloura, Jammu	Member
2 Smt. Kanta Andotra Ex. M.L.A R/O Gandhi Nagar, Jammu	Member
Representatives of Farmers, Traders and Industrialists	
1 Dr. Mubeen Shah, President Chamber of Commerce, Kashmir	Member
2 Shri Y.V. Sharma, President Chamber of Commerce, Jammu	Member
3 Shri Jugal Mahajan, President Federation of Industries & Commerce, Jammu	Member
Persons capable to represent consumer interests not specified above.	
1 Shri D.K. Khajuria, Advocate High Court, Jammu	Member
2 Shiekh Abdul Rehman, Batmalloo, Srinagar	Member
3 Shri Mohd Akbar, Advocate, Anantnag	Member
4 Secretary to Government Consumer Affairs & Public Distribution Department	Member Secretary
Consumer Protection Act, 1987 Member of the Divisional Consumer Disputes Redressal Forum appointed for five years SRO 14, dated 12.01.2011, Consumer Affairs and Public Distribution Department In exercise of the powers conferred by section 8 of the Jammu and Kashmir Consumer Protection Act, 1987 (Act No. XVI of 1987), the Government on the recommendations of the Selection Committee hereby appoint Ms. Veena Julmaria (Advocate) D/O Sh. Om Prakash Julmaria R/O House No. 18 Sector No.2 Sanjay Nagar, Jammu as "Member" of the Divisional Consumer Disputes Redressal Forum, (Divisional Forum), Jammu for a period of five years. Provided that the Member shall give an undertaking that she does not and will not have any financial or other interests as are likely to affect prejudicially her functions as such. Consumer Protection Act, 1987 Member of the Consumer Disputes Redressal Commission (State Commission) appointed for five years SRO 15, dated 12.01.2011, Consumer Affairs and Public Distribution Department In exercise of the powers conferred by clause (b) of sub-section (1) of section 14 of the Jammu and Kashmir Consumer Protection Act, 1987 read with Rule 22 (ii) of the Jammu and Kashmir Consumer Protection Rules 1987, the Government hereby appoints Mtr. Shabnum Munshi (Advocate, J&K High Court Srinagar) D/O Sh. Munshi Ghulam Rasool RIO Broadway Shivpora, Near Sehgal House, Srinagar as "Member" of the J&K Consumer Disputes Redressal Commission (State Commission) for a period of five years. Provided that the Member shall give an undertaking that she does not and will not have any financial or other interests as are likely to affect prejudicially her functions as such. Consumer Protection Act 1987 Appointment of Member of the Jammu and Kashmir	

Consumer Disputes Redressal Commission, (State Commission) for a period of five years SRO 360, dated 13.12.2011, Consumer Affairs and Public Distribution Department In exercise of the powers conferred by sub-section (1) of section 14 of the Jammu and Kashmir Consumer Protection Act 1987 (Act No. XVI of 1987) read with rule 12 (ii) of the Jammu and Kashmir Consumer Protection Rules, 1987, the Government, on the recommendations of the Selection Committee, hereby appoint Shri Davinder Kumar Kapoor (Rtd. District and Sessions Judge) 5/o Late Shri Ram Chand Kapoor R/O 3/135, Indira Vihar, Old Janipur, Jammu as "Member" of the Jammu and Kashmir Consumer Disputes Redressal Commission, (State Commission) for a period of five years: Provided that the Member shall give an undertaking that he does not and will not have any financial or other interests as are likely to affect prejudicially his functions as such. Consumer Protection Act, 1987 District Forum in each District of the State established SRO 361, dated 13.12.2011, Department of Law, Justice and Parliamentary Affairs In exercise of powers conferred by section 7 of the Jammu and Kashmir Consumer Protection Act, 1987, as amended by the Jammu and Kashmir Consumer Protection (Amendment) Act, 2002 (Act No. XXI of 2011) with effect from 08-12-2011, the Government, as recommended by the High Court of Jammu and Kashmir, hereby establish a District Forum in each District of the State with Principal District and Sessions Judge of each District as its ex-officio President for the purpose of the District concerned. It is further ordered that the Presidents of the erstwhile Divisional Forums of Jammu and Srinagar shall henceforth be ex-officio Presidents of the District Forums of Jammu and Srinagar respectively.