
18.7 MISCELLANEOUS (CHAPTER VIII)

18.7.1 Measures to Prevent Unfair trade Practices in E-commerce, Direct Selling etc.

The Central Government is empowered to take necessary measures in the manner prescribed if any, for the purposes of preventing unfair trade practices in e-commerce, direct selling and also to protect the interest and rights of consumers (**Section 94**).

18.7.2 Presidents, Members, Chief Commissioner, Commissioner and certain Officers to be Public Servants

The Presidents and Members of the District Commission, the State Commission and the National Commission, and officers and other employees the Chief Commissioner and the Commissioner of the Central Authority, the Director General, the Additional Director General, the Director, the Joint Director, the Deputy Director and the Assistant Director and all other officers and employees of the Central Authority and other persons performing any duty under this Act, while discharging duty will be deemed to be **public servants** within the meaning of section 21 of the Indian Penal Code (**Section 95**).

18.7.3 Compounding of Offences

The offence punishable under sections 88 and 89, can be compounded either before or after the institution of the prosecution, on payment of amount as may be prescribed (**Section 96**).

Further, compounding of offence cannot be made without the leave of the court before which a complaint has been filed under **section 92 [Proviso to Section 96(1)]**.

Furthermore, the payment sum referred above will not in any case, exceed the maximum amount of the fine, which is imposable under this Act for the offence so compounded [**Second Proviso to Section 96(1)**].

The Central Authority or any officer authorised by him in this regard can compound offences under sub-**[Section 96(1) (Section 96(2))]**.

The above referred sub-section 96(1) will not apply to person who commits the same or similar offence, within a period of three years from the date on which the first offence, committed by him, was compounded [**Section 96(3)**].

Explanation.—For the purposes of this sub-section, the second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, will be deemed to be a first offence.

As and when an offence has been compounded under Section 96(1), no proceeding or further proceeding, will be taken against the offender in respect of the offence so compounded [**Section 96(4)**].

The acceptance of the sum of money for compounding an offence in accordance with Section 96(1) by the Central Authority or an officer of the Central Authority empowered in this behalf will be deemed to amount to **an acquittal within** the meaning of the Code of **criminal Procedure, 1973**. [**Section 96(5)**].

18.7.4 Manner of Crediting Penalty

The penalty collected under section 21 and the amount collected under section 96 will be credited to the prescribed fund, if any (**Section 97**).

18.7.5 Protection of Action Taken in good Faith

Any suit, prosecution or other legal proceeding will not lie against the Presidents and members of the District Commission, the State Commission and the National Commission, the Chief Commissioner, the Commissioner, any officer or employee and other person performing any duty under this Act, for any **act which is in good faith done or intended to be done in pursuance of this Act** or under any rule or order made there under (**Section 98**).

18.7.6 Power to give Directions by Central Government

The Central Authority, will, in exercise of its powers or the performance of its functions under this Act, be bound by the directions on questions of policy, as prescribed or issued by Central Government in writing to it from time to time (**Section 99**).

Further, the Central Authority as far as practicable, will be given an opportunity to express its views before any direction is given under this sub-section [**Proviso to Section 99(1)**].

The decision of the Central Government whether a question is one of policy or not **will be final** [**Section 99(2)**].

18.7.7 Act not in Derogation of any other Law

The provisions of this Act will be in addition to and not in derogation of the provisions of any other law for the time being in force (**Section 100**).

18.7.8 Power of Central Government to Make Rules

The Power confirmed upon Central Government to make rules are elaborately provided under this section [**Section 101, 101(2) (a) to zi**]. Those interested to know the details of such rules may please refer to the relevant rules under the main Act, 2019.

18.7.9 Power of State Government to Make Rules

The Power confirmed upon State Government to make rules are elaborately provided under this section [**Section 102(1), 102(2) (a) to (d)**]. Those interested to know the details of such rules may please refer to the relevant rules under the main Act, 2019.

18.7.10 Power of National Commission to Make Rules

The Power confirmed upon National Commission to make rules are elaborately provided under this section [**Section 103(1), 103(2) (a) to (i)**]. Those interested to know the details of such rules may please refer to the relevant rules under the main Act, 2019.

18.7.11 Power of Central Authority to Make Rules

The Power confirmed upon Central Authority to make rules are elaborately provided under this section [**Section 104(1), 104(2) (a) to (d)**]. Those interested to know the details of such rules may please refer to the relevant rules under the main Act, 2019.

18.7.12. Rules and Regulations to be laid before each house of parliament

Every rule and regulations made under this Act, 2019 will be laid, as soon as possible before each house of parliament (**Section 105**).

18.7.13 Power to Remove Difficulties

The power to remove difficulties arising while giving effect to the provisions of the Act, 2019 is vested upon the Central Government (**Section 106**).

18.7.14 Repeal and Saving

The Consumer Protection Act 1986 is hereby, Repealed. However, the action taken under the Act 1986 will remain valid if the same are not inconsistent with the provision of the Act, 2019 (**Section 107**).

Check Your Progress 7

- 1) Name the Authority vested with the power to take measures to prevent unfair trade practices in E-Commerce, Direct Selling.
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2. Discuss the provisions related to compounding of offences.
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- 3) List out the authorities vested with the power to make rules under the Act 2019.
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LET US SUM UP

Dear Learners,

After reading this unit thoroughly, you have been made to understand the salient features of the newly enacted Consumer Protection Act, 2019 in detail. You might have also understood the following concepts viz. (i) The three-tier Consumer Dispute Redressal Commissions (ii) The availability of pre-litigation mediation process for settlement of disputes, (iii) Product liability clauses and actions, and (iv) The different type of offences provided under the Act, 2019 alongwith the nature and quantum of punishment prescribed under the Act,2019 etc. and other miscellaneous matters.

Hope, you have understood all the above aspects in greater detail after reading this unit. Our sincere wishes for your successful **completion of course within the given shortest** possible time.

18.8 REFERENCE MATERIALS

1. The Consumer Protection Act, 2019 (No.35 of 2019. Published on 9th August, 2019 in the Official Gazette of India.
2. Official website of the Ministry of Consumer Affairs, Government of India.

3. Elumalai's Consumer Protection Act and Banking Service, Law Publishers (India) Pvt. Ltd., 2nd revised Edition 2018
4. IGNOUs Revised (2019) Self Learning Materials on Consumer Protection Act- CPI,101,CPI 102 and CPI 103.

18.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) Discuss the Constitution (Establishment), Composition and Jurisdiction of District Commission.
Please refer Table-1
- 2) Discuss the Procedure to be adopted on admission of complains by District Commission.
Please refer Para 18.3.4.2
- 3) Discuss the duration within which the complaints should be disposed.
Please refer Para 18.3.4.2(D)
- 4) Finding of the District Commission.
Please refer Para 18.3.4.3

Check Your Progress 2

- 1) Discuss the Constitution (Establishment), Composition and Jurisdiction of State Commission.
Please refer Table-II
- 2) Discuss the Exercise of jurisdiction by benches of State Commission.
Please refer Para 18.3.5.1(B)
- 3) Where to make a complaint in the case of State Commission.
Please refer Para 18.3.5.1(D)
- 4) Discuss the provision relating to Appeal to National Commission.
Please refer Para 18.3.5.5

Check Your Progress 3

- 1) Discuss the Constitution (Establishment), Composition and Jurisdiction of National Commission
(Table-III)
- 2) Explain the procedure to be followed in the event of difference in the opinion between the President and Members
Please refer Para 18.3.6.1
- 3) Where to file Appeal against the order of National Commission
Please refer Para 18.3.6.12
- 4) Discuss the Administrative control to be exercised by National Commission.
Please refer Para 18.3.6.14)
- 5) Discuss the quantum of Penalty non-compliance of the order of National Commission
Please refer Para 18. 3.6.18)

Check Your Progress 4

- 1) List of the name of records to be maintained by Consumer Mediation Cell.
Please refer Para 18.4.1 (iii)
- 2) Explain the important aspects to be kept in mind towards empanelment of mediators.
Please refer Para 18.4.2
- 3) Discuss the procedure to be followed during mediation proceeding.
Please refer Para 18.4.6
- 4) Discuss the procedure to be followed in the event of settlement reached through mediation.
Please refer Para 18.4.7

Check Your Progress 5

- 1) Name the parties against to whom product liability action can be instated.
Please refer Para 18.5.2
- 2) Discuss the liability of product manufacturer.
Please refer Para 18.5.3
- 3) Discuss the liability of Product Service Provider.
Please refer Para 18.5.4
- 4) Discuss the liability of Product Sellers.
Please refer Para 18.5.5
- 5) Discuss the provision related to 'Exception to product Liability Action'.
Please refer Para 18.5.6

Check Your Progress 6

- 1) Discuss the penalty for False or Misleading Advertisement.
Please refer Para 18.6.2
- 2) Discuss the penalty for punishment for manufacturing for Sale or Storing, Selling or Distributing or Importing Products Containing Adulterant.
Please refer Para 18.6.3
- 3) Discuss the penalty for punishment for manufacturing for Sale or Storing, Selling or Distributing or Importing Spurious Goods.
Please refer Para 18.6.4

Check Your Progress 7

- 1) Name the Authority vested with the power to take measures to prevent unfair trade practices in E-Commerce, Direct Selling.
Please refer Para 18.7.1
2. Discuss the provisions related to compounding of offences.
Please refer Para 18.7.3
- 3) List out the authorities vested with the power to make rules under the Act 2019.
Please refer Para 18.7.8, 9, 10 & 11