

GOVERNMENT OF KERALA

Food, Civil Supplies and Consumer Affairs (CA) Department

NOTIFICATION

G.O (MS) No.37/2005/F, CS&CA Dated, Thiruvananthapuram, 08-12-2005

S.R.O No.1069/2005. 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 Kerala Consumer Protection Rules, 1998, issued under Notification No.7793/C1/95/F&CSD dated the 5th June, 1998, and published as S.R.O No.566/98 in the Kerala Gazette Extraordinary No.1116 dated the 10th July, 1998, the Government of Kerala hereby make the following Rules, namely: -

Rules

1.Short title and commencement. - (1) These rules may be called the Kerala Consumer Protection Rules, 2005.

(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 (Central Act 68 of 1986);

(b) "agent" means a person duly authorized by a party to appear and to institute or file any complaint, appeal or revision or other petition or reply and to conduct the same on his behalf before the District Forum or the State Commission;

(c) "appellant" means a party who makes an appeal against an order of the District Forum;

(d) "Chairman" means the Chairman of the State Consumer Protection Council or the District Consumer Protection Council, as the case may be;

(e) "Government" means the Government of Kerala;

(f) "memorandum" means a memorandum of appeal filed by an appellant;

(g) "opposite party" means a person who has to answer a complaint or a claim;

(h) "President" means the President of the District Forum or the State Commission, as the case may be;

(i) "respondent" means the person who answers any memorandum of appeal;

(j) "section" means a section of the Act;

(k) "State" means the State of Kerala;

(l) Words and expressions used in these rules and not defined 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) three members of the Kerala Legislative Assembly, nominated by the Government;

(c) five representatives from the Government Departments and Undertakings concerned, with consumer interests, nominated by the Government;

(d) five representatives from the voluntary consumer organizations functioning in the State, nominated by the Government, of whom two shall be women;

(e) four representatives from among farmers, manufacturers, traders and industrialists, nominated by the Government;

(f) two persons capable of representing consumer interests other than those specified above nominated by the Government;

(g) the Commissioner of Civil Supplies - ex-officio;

(h) The Secretary to the Government of Kerala, Food, Civil Supplies and Consumer Affairs - ex-officio;

(i) the Director of Civil Supplies, Kerala - ex-officio;

(j) the Registrar & Secretary, Consumer Disputes Redressal Commission - ex-officio;

(k) ten official or non-official members nominated by the Central Government;

(l) the Additional Secretary to Government, Food, Civil Supplies and Consumer Affairs, who shall be the Member Secretary of the State Council.

(2) The term of office of the members shall be three years from the date of nomination of such members.

(3) Any nominated member may, by writing under his hand addressed to the Chairman of the State Council, resign his office. Any vacancy that may arise due to resignation or otherwise shall be filled from among the same category and such person shall hold office only for the remainder of the term of office of the person in whose place he was nominated.

4. Procedure for the meetings of the State Council. - (1) Every meeting of the State Council shall be convened by the Member Secretary in accordance with the directions of the Chairman.

(2) The meeting 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 seven.

(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.

(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) For the purpose of performing its functions, the State Council may constitute, from amongst the members, such working groups as it may deem necessary under the Chairmanship of the Member-Secretary of the Council and each such working group so constituted shall perform such functions as are assigned to it by the State Council. Such working groups shall consist of not exceeding five members and shall meet as and when necessary. The findings of such working groups shall be placed before the State Council for its consideration.

(7) The resolutions passed by the State Council shall be recommendatory in nature.

(8) No proceedings of the State Council shall be invalid merely by reason of existence of any vacancy in or any defect in the constitution of the Council.

(9) The members shall be eligible for traveling allowance and daily allowance for attending the meetings of the State Council or its working groups at the rate admissible to Class I Officers of the Government. On receipt of the claim, payment of traveling allowance and daily allowance to members shall be made by the Registrar & Secretary of the State Commission from the traveling allowance Head of Account of the Consumer

Disputes Redressal Commission.

(10) Every claim under this sub-rule shall be subject to certifying by the member to the effect that he had not claimed such allowances from any other Government Departments, Ministries or Organizations or establishments for his visit to attend the meeting of the State Council or any of its working group. For the purpose of calculating traveling allowance, the address of the member as shown in the notification constituting the Council shall be followed. Local non-official members residing at the place of the venue of the meeting shall be paid a consolidated amount of rupees 150 (Rupees one hundred and fifty only) per diem.

5. Composition of the District Consumer Protection Council. -(1) The District Consumer Protection Council for the Districts of the State of Kerala established under section 8A of the Act (hereinafter referred to as the District Council) shall consist of the following members, namely: -

- (a) the Collector of the District who shall be the Chairman;
- (b) three members of the Kerala Legislative Assembly, nominated by the Government;
- © five representatives from the Government Departments and Undertakings concerned, with consumer interests, nominated by the Chairman;
- (d) five representatives from the voluntary consumer organizations in the District, nominated by the Chairman, of whom one shall be woman;
- (e) four representatives from among farmers, manufactures, traders and industrialists, nominated by the Chairman;
- (f) five representatives of the recognized trade unions of the District, nominated by the Chairman;
- (g) three persons capable of representing consumer interests in the District other than those specified above nominated by the Chairman;
- (h) one representative of the Press Club of the District Head Quarter, nominated by the Chairman;
- (i) six members representing the Panchayaths, two each from the Grama Panchayath, Block Panchayath and District Panchayath, nominated by the District Panchayath President;
- (j) the District Supply Officer - ex-officio, who shall be the Member-Secretary of the District Council.
- (k) the Senior Superintendent of the District Consumer Disputes Redressal Forum- ex-

officio.

(2) The term of office of the members shall be three years from the date of nomination.

(3) Any nominated member may, by writing under his hand addressed to the Chairman of the District Council, resign his office. Any vacancy that may arise due to resignation or otherwise shall be filled from among the same category and such person shall hold office only for the remainder of the term of office of the person in whose place he was nominated.

6. Procedure for the meetings of the District Council. - (1) Every meeting of the District Council shall be convened by the Member Secretary in accordance with the directions of the Chairman.

(2) The meeting of the District 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 District Council shall be seven.

(4) Every meeting of the District 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 District 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.

(5) Every notice of the meeting of the District Council shall specify the place, date and hour of the meeting and shall contain a statement of the business to be transacted thereof.

(6) For the purpose of performing its functions under the Act, the District Council may constitute, from amongst its members, such working groups as it may deem necessary under the Chairmanship of the Member-Secretary of the District Council and each such working group so constituted shall perform such functions as are assigned to it by the District Council. Such working groups shall consist of not exceeding five members and shall meet as and when necessary. The findings of such working groups shall be placed before the District Council for its consideration.

(7) The resolutions passed by the District Council shall be recommendatory in nature.

(8) No proceedings of the District Council shall be invalid merely by reasons of existence of any vacancy in or any defect in the constitution of the Council.

(9) The non-official members and members of the Legislative Assembly shall be eligible for traveling allowance and daily allowance for attending the meetings of the District Council or its working groups at the rate admissible to Class I Officers of the

Government. The official members of the District Council shall be eligible for traveling allowance and daily allowance for attending the meetings of the District Council and working groups as admissible under the provisions of the Kerala Service Rules. Every claim under this sub-rule shall be subject to certifying by the member to the effect that he had not claimed such allowances from any other Government Departments, Ministries or Organizations or establishments for his visit to attend the meeting of the District Council or any of its working group.

Note. - For the purpose of calculating traveling allowance, the address of the member as shown in the notification constituting the Council shall be followed. Local non-official members residing at the place of the venue of the meeting shall be paid consolidated amount of rupees 150 (Rupees one hundred and fifty only) per diem. On receipt of the claim, payment of traveling allowance and dearness allowance to members shall be made by the Senior Superintendent of the District Forum from the Traveling Expense provision of the Consumer Disputes Redressal Forum.

7.Appointment of whole time members in the District Forum. - (1) Appropriate panel of candidates for consideration of appointment as whole-time member in the District Forum shall be called for by the Department in charge of Consumer Affairs in Government from the concerned District Collectors and the District Collectors may, after due publicity, furnish a short listed panel of candidates, not exceeding five candidates per vacancy, with relevant documents and details to the Government after verification and scrutiny of the qualifications and other eligibility criteria prescribed in the Act and these Rules:

Provided that the Government Department dealing with the Consumer Affairs may, if necessary, advertise directly for the purpose.

(2) The panel of sitting Judges/Retired District Judges and persons qualified to be appointed as District Judges shall be obtained from the High Court of Kerala for consideration of appointment to the post of President.

(3) The category-wise panel so obtained, after further scrutiny and short listing, with all relevant documents and details shall be placed before the Selection Committee at the appropriate time by the convener of the Selection Committee and the Selection Committee shall finalize a panel of category-wise candidates, by adopting such methods as the Selection Committee may deem fit, and the list of qualified candidates so finalized, shall be sent for consideration of appointment by the Government. The Secretary to Government in charge of the Department dealing with Consumer Affairs in the State shall be the Convener of the Selection Committee.

8. Removal. - (1) The Government may remove from office a member of the District Forum, who, -

(a) is an undischarged insolvent; or

(b) has been convicted and sentenced to imprisonment for 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 been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or as such member; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest; or

(g) has joined a political party or accepted another office of profit; or

(h) has joined a banned outfit or an organization declared by competent authority; and

(i) has deserted or absented from the duties unauthorisedly for a period exceeding five days.

(2) A member of the District Forum shall not be removed from office on the grounds specified in these rules unless such grounds have been proved pursuant to an inquiry held by a sitting judge of the High Court of Kerala, nominated by the Chief Justice in accordance with the provisions contained in the Kerala Civil Services (Classification Control and Appeal) Rules, 1960 or such other rules or regulations as the Government may deem fit.

(3) The inquiry report shall be prepared by the inquiry authority defined in these rules and be forwarded to the State Government for appropriate action.

9. Resignation. - A member of the District Forum may by writing under his hand and addressed to the appointing authority resign his office at any time after giving one month notice, under intimation to the Presiding Officer of the State Commission and the District Forum, subject to the following conditions that:

(i) the President/Member who resigns shall handover charges of office to a member/president of the District Forum as the case may be; and

(ii) the resignation of a member shall be effective from the date of acceptance by the appointing authority, provided that the appointing authority shall have the powers to waive the notice period.

10. Head of Office. - The President of the District Forum shall be the Head of Office and shall have the administrative control over the staff of the District Forum.

11. Location, working days and office hours. -(1) The Office of the District Forum shall be at the headquarters of the District or at such other places as may be notified by

the Government. Where the Government decides 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 office hours of the office of a District Forum shall be the same as that of the offices of the Government.

12. Seal and emblem. - The office seal and emblem of the District Forum shall be such as the Government may specify.

13. Place of Sitting. - The sitting of the District Forum shall be convened by the President. The sitting shall ordinarily be at the office of the District Forum, provided that sitting may also be convened at such other places, if the situation warrants, subject to the concurrence of the State Commission.

14. Staff. - The 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 as assigned by the President.

15. Salary, honorarium, other allowances and the conditions of service 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: -

(a) if he is a sitting judge	Same salary and allowances to which he is entitled to as a 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 rupees 750 (Rupees seven hundred and fifty only) per day for each sitting
© if he is a retired District Judge, appointed on full time basis	Last pay drawn, in the scale of pay of the District Judge plus allowances attached thereto, less the amount of pension including dearness relief to which he is entitled to, or an honorarium of rupees 15,000 (Rupees fifteen thousand only) 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 rupees 10,000 (Rupees ten thousand only) per month. If appointed as part-time members, they shall be entitled to an honorarium of rupees 500 (Rupees five hundred only) per day for each sitting.

(3) The members of the District Forum shall be entitled to traveling and daily allowances for the official tour, if any, undertaken by them at the same rates as are admissible to a Class I Officer of the State Government. The President of the District Forum shall sanction such tour.

(4) The President of a District Forum, if appointed on full time basis, shall be entitled to the leave admissible, including surrender of earned leave, as per the provisions of the Kerala Service Rules relating to the leave rules as applicable to contract/provisional employees appointed for a period of five years or less. The service shall however not count for the purposes of pension etc.

(5) The members of the District Forum shall receive a monthly conveyance allowance of rupees 1000 (Rupees one thousand only). The members, who are separately entitled to any other kind of conveyance allowance or provided with Government 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 traveling allowance is drawn.

(6) Any Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of any organization which has been the subject of any proceedings under the Act during his tenure for a further period of five years from the date on which he ceases to hold such office, without the prior permission of the Government.

(7) The terms and conditions of services of the members shall not be varied to their disadvantage during their tenure of office.

(8) The salary or honorarium, as the case may be, and other allowances of the President and other members of the District Forum shall be defrayed out of the Consolidated Fund of the State.

(9) A member other than the President of the District Forum shall be eligible for casual leave of twenty days in a calendar year with honorarium, subject to the condition that the members shall attend office on all working days and during the specified office hours: Provided that such leave shall be sanctioned by the President of the District Forum to its members.

(10) Leave shall not be claimed as a matter of right. When the exigencies of service for the dispensation of justice so require, discretion to refuse or revoke leave of any description is reserved with the authority empowered to grant it.

(11) Casual leave exceeding five days at a stretch, excluding holidays, shall not be counted for honorarium.

16. Composition of the State Commission. - The State Commission shall consist of the President and four members.

17. Appointment of whole-time members in the State Commission. - (1) The President of the State Commission shall be appointed by the Government in consultation with the Chief Justice of the High Court of Kerala.

(2) Appropriate panel of candidates for consideration of appointment as judicial members to the State Commission shall be called for by the Department in charge of Consumer Affairs in Government from the High Court of Kerala.

(3) In the case of other members of the State Commission, appropriate panel of candidates for consideration of appointment shall be called for by the Department in charge of Consumer Affairs in Government from the concerned District Collectors and the District Collectors may, after due publicity, furnish a short listed panel of candidates, not exceeding three candidates per vacancy, with relevant documents and details to the Government after due verification and scrutiny of the qualification and other eligibility criteria prescribed in the Act and these Rules:

Provided that the Government (Department dealing with the Consumer Affairs) may, if necessary, advertise directly for the purpose.

Provided further that the panel so obtained, after further scrutiny and short-listing, shall be placed before the Selection Committee at the appropriate time by the convener of the Selection Committee. The Secretary to Government in charge of the Department dealing with Consumer Affairs in the State shall be the convener of the Selection Committee:

Provided also that the Selection Committee shall finalize a panel of candidates, by adopting such methods as the Selection Committee may deem fit, and the list of qualified candidates so finalized, shall be sent for consideration of appointment by the Government.

18. Removal. - (1) The Government may remove from office a member of the State Commission, who, -

(a) is an undischarged insolvent; or

(b) has been convicted and sentenced to imprisonment for 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 been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or as such member; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest; or

(g) has joined a political party or accepted another office of profit; or

(h) has joined a banned outfit or an organization declared by competent authority; and

(i) has deserted or absented from the duties unauthorisedly for a period exceeding five days:

(2) A member of the State Commission shall not be removed from the office on the grounds specified in these rules unless such grounds have been proved pursuant to an inquiry held by a sitting judge of the High Court of Kerala, nominated by the Chief Justice in accordance with the provisions contained in the Kerala Civil Services (Classification Control and Appeal) Rules, 1960 or such other rules or regulations the Government may deem fit.

(3) The inquiry report shall be prepared by the inquiry authority defined in these rules and be forwarded to the State Government for appropriate action.

19. Resignation. - A member of the State Commission may, by writing under his hand and addressed to the appointing authority, resign his office at any time after giving one month notice, under intimation to the Presiding Officer of the State Commission, subject to the following conditions that:

(i) the President/Member who resigns shall handover charges of office to a Member/President of the State Commission as the case may be; and

(ii) the resignation of a Member shall be effective from the date of acceptance by appointing authority, provided that the appointing authority shall have the powers to waive the notice period.

20. Head of Office. - The President of the State Commission shall be the Head of Office and shall have the administrative control over the staff of the State Commission and Fora.

21. Location, working days and office hours. -(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.

22. Seal and emblem. - The office seal and emblem of the State Commission shall be such as the Government may specify.

23. Place of Sitting. - Sitting of the State Commission shall be convened by the President. The sitting shall ordinarily be at the office of the State Commission, provided that sitting may also be convened at other centres also according to necessity.

24. Appeals before the State Commission. - (1) The memorandum of appeal may be filed by the appellant or his authorized agent to the State Commission in person or shall be sent by registered post or courier addressed to the Registrar and Secretary of the State Commission. The appellant or his authorized agent may conduct the case.

(2) Every memorandum of appeal shall be written legibly, preferably type-written and shall set forth concisely under distinct heads the grounds of appeal.

(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.

(4) The State Commission may entertain an appeal after the expiry of the period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(5) The appellant shall submit three copies of the memorandum of appeal to the State Commission for official purposes with sufficient number of additional copies of the memorandum for service on all the respondents.

(6) No appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty percent of the amount or rupees twenty five thousand, whichever is less.

(7) 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 agents to appear before the State Commission. If the appellant or his authorized agent fails to appear on such date, the State Commission may either decide the appeal on the merits of the case or dismiss it on default. If the respondent or his authorized agent fails to appear on such date, the State Commission shall decide the appeal *ex parte* on the merits of the case:

(8) 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 these Rules:

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.

(9) The State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of an appeal, but not more than three adjournments shall, ordinarily, be given.

(10) The State Commission shall call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State, where it appears to the State Commission that such District Forum has

exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

25. Staff. - (1) The 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 or these Rules or as assigned by the President.

(2) The Secretary of the State Commission shall henceforth be the Registrar and Secretary of the Commission and shall assist the Commission in matters relating to procedures of the State Commission.

26. Salary, honorarium, other allowances and the conditions of service of the President and Members of the State Commission. - (1) The President of the State Commission shall be entitled to salary, allowances as are admissible to a sitting Judge of the High Court, if appointed on whole-time basis or to an honorarium of rupees 1000 (Rupees one thousand only) per day for each sitting if appointed on part-time basis.

(2) The other members, if appointed on whole-time basis, shall receive a consolidated honorarium of rupees 15,000 (Rupees fifteen thousand only) per month or if appointed on part-time basis, an honorarium of rupees 700 (Rupees seven hundred only) per day for each sitting:

Provided that in the case of members having judicial background, the salary, other allowances and the conditions of service shall be the same applicable to the sitting/retired District judges appointed on full-time.

(3) The President shall be entitled to traveling and daily allowance for the official tour undertaken by him at the same rates as are admissible to a sitting judge of the High Court and shall be entitled to travel by air in executive class.

(4) 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.

(5) The members shall receive a monthly conveyance allowance of rupees 2,000 (Rupees two thousand only). The members, who are separately entitled to any other kind of conveyance allowance or provided with Government 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 traveling allowance is drawn.

(6) 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 any organization which has been the subject of any proceedings under the Act during his tenure for a further period of five years from the date on which he ceases to hold such office, without the prior permission of the Government.

(7) The terms and conditions of the services of the members of the State Commission shall not be varied to their disadvantage during their tenure of office.

(8) The salary or honorarium, as the case may be, and other allowances of the President and the other members of the State Commission shall be defrayed out of the Consolidated Fund of the State.

(9) A member of the State Commission other than the President and members having judicial background shall be eligible for casual leave of twenty days in a calendar

year with honorarium, subject to the condition that the members shall attend office on all working days and during the specified office hours:

Provided that such leave shall be sanctioned by the President of the State Commission to its members.

(10) Leave shall not be claimed as a matter of right. When the exigencies of service for the dispensation of justice so require, discretion to refuse or revoke leave of any description is reserved with the authority empowered to grant it.

(11) Casual leave exceeding five days at a stretch, excluding holidays, shall not be counted for honorarium.

27. Testing Laboratory. - (1) For the purpose of obtaining recognition as an appropriate laboratory, the head of the laboratory shall send application, in triplicate in the Proforma prescribed by the Bureau of Indian Standards with the relevant details to the Consumer Affairs Department in Government. The Government on receiving such application shall forward two copies of the same to the Bureau of Indian Standards to assess the suitability of the laboratory. The fee prescribed by the Bureau of Indian Standards shall be paid by the applicant. The Government, on receiving the recommendations and approval of the Bureau of Indian Standards, shall notify the laboratory as an appropriate laboratory for the purpose of Consumer Protection Act, 1986.

(2) For authentication of the goods/commodities obtained for analysis/testing, the District Forum or as the case may be the State Commission, if considers necessary, direct the complainant to provide the defective goods/commodities for analysis/testing.

(3) On receipt of such goods or commodities or samples there from the District Forum or, as the case may be the State Commission, shall seal it and fix labels on the containers/packages carrying the following information: -

(i) name and address of the laboratory to which sample shall be sent for analysis and testing;

(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.

(4) 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:

Provided that Government owned or other approved/accredited laboratories or such other laboratories or such experts as the District Forum/State Commission may deem fit shall be engaged for analysis/testing.

28. Remittance of decree amount. - The judgment debtor may pay the decree amount directly to the decree holder in cash or through Banker's cheque or demand draft at any point of time or in the presence of the District Forum or the State Commission during the proceedings of the execution petition.

29. Remittance of deposit amount. - The deposit amount prescribed in this rule as a condition precedent to institute an appeal shall be paid to the State Commission by way of demand draft or banker's cheque of any Nationalized Bank drawn in favour of the Registrar and Secretary of the State Commission, payable at Thiruvananthapuram and the Registrar and Secretary, shall, in turn, deposit the amount in a Nationalized Bank in the deposit account of the Commission to be opened: Provided that in justified cases, the amount so deposited shall be released to the decree holder on such conditions and on execution of a proper bond, subject to the satisfaction of the State Commission.

30. Credit of fine into the Consumer Welfare Fund when consumers are not identified conveniently. - Where an order is passed by the State Commission or the District Forum directing the opposite party to pay such amount as determined by it on account of loss or injury suffered due to defects in goods complained against or deficiency of service to a large number of consumers, who are not identifiable conveniently, such sum shall be credited, by the District Forum or the State Commission, as the case may be, to the Consumer Welfare Fund established by the Central Government, in the following address by way of demand draft drawn on a Nationalized Bank and payable at New Delhi:

**The Secretary to Government of India,
Ministry of Consumer Affairs, Food & Public Distribution,
Department of Consumer Affairs,
Krishi Bhavan, New Delhi-110001.**

31. Transfer of Cases. - On the application of the complainant or of its own motion, the District Forum shall, in the interest of justice, recommend the transfer of any complaint filed before it to any other District Forum and the State Commission may pass appropriate orders:

Provided that the State Commission shall entertain in justified cases the transfer of cases from one District Forum to another brought to its notice by the complainant.

32. Interlocutory Applications. - The District Forum or the State Commission, as the case may be, shall make all endeavours to decide any interlocutory application filed before it as expeditiously as possible, preferably within thirty days.

By order of the Governor,

**Sheela Thomas,
Secretary to Government.**

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

The Consumer Protection (Kerala) Rules were framed in 1987 as provided in the Consumer Protection Act, 1986. Subsequently, the Kerala Consumer Protection Rules, 1998, framed as per Notification No.7793/C1/95/F&CSD dated the 5th June 1998 and published as S.R.O No.566/98 in the Kerala Gazette Extraordinary No.1116 dated the 10th July 1998, in conformity with the provisions of the Consumer Protection Act, as amended by Central Act 50 of 1993, are in force. The Consumer Protection Act, comprehensively amended in 2002 by the Central Government, had undergone drastic changes, necessitating revision of rules. It is also expedient to prescribe rules, regulations and procedures related to the appointment of judicial and non-judicial members ensuring transparency and fair play; to lay down service rules for the members of the redressal agencies and to simplify and rationalize the rules of practice adaptable with due focus on common consumer. Government have therefore decided to issue a new set of rules superseding the existing one.

This notification is intended to achieve the above object.

Government of Kerala
KL/TV/(N)/12
1998

Reg. No.

KERALA GAZETTE

EXTRA ORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIII Thiruvananthapuram, Friday 10th July 1998 No.1116

GOVERNMENT OF KERALA

Food and Civil Supplies (C) Department

NOTIFICATION

No. 7793/C1/95/F&CSD.
1998.

Dated, Thiruvananthapuram, 5th June

S.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: -

RULES

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 causal 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 them 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: -

(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 than 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 authorized 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.

By order of the Governor,

MATHEW C. KUNNUMKAL
Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Consumer Protection (Kerala) Rules, were framed in 1987, as provided in the Consumer Protection Act, 1986. The Consumer Protection Act was comprehensively amended in 1993 by the Central Government. It has become necessary to make the rules in conformity with the provisions of the Consumer Protection Act, as amended by Central

Act 50 of 1993, since certain rules issued by Government by Notification No. 377/C1/87/F&CS dated the 16th October, 1987 become contradictory to the provisions of the Act. Government has decided to issue a new set of rules superseding the existing one.

This notification is intended to achieve the above object.