

TWELFTH REPORT
STANDING COMMITTEE ON FOOD, CIVIL
SUPPLIES AND PUBLIC DISTRIBUTION
(2001)

(THIRTEENTH LOK SABHA)

MINISTRY OF CONSUMER AFFAIRS, FOOD
AND PUBLIC DISTRIBUTION
(DEPARTMENT OF CONSUMER AFFAIRS)

THE CONSUMER PROTECTION
(AMENDMENT) BILL, 2001

Presented to Lok Sabha on.....
Laid in Rajya Sabha on.....

28 NOV 2001



LOK SABHA SECRETARIAT
NEW DELHI

November, 2001/Agrahayana, 1923 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON FOOD,
CIVIL SUPPLIES AND PUBLIC DISTRIBUTION
(2001)

Shri Devendra Prasad Yadav — *Chairman*

MEMBERS

Lok Sabha

2. Shri A.P. Abdullakutty
3. Prof. S.P. Singh Baghel
4. *Shri Shyamlal Bansiwala
5. Shri Ranen Barman
6. Shri Sujan Singh Bundela
7. Shri Namdeorao Harbaji Diwathe
8. Shri Rameshwar Dudi
9. Shri Abdul Hamid
10. Shri Jai Prakash
11. Shrimati Preneet Kaur
12. Shri Brijlal Khabri
13. Shri Shyam Bihari Mishra
14. Shri Yogi Aditya Nath
15. Shri Sisram Ota
16. Shri Mansinh Patel
17. Shri Laxmanrao Patil
18. Shri Bajji Ban Riyan
19. Shri Vishnu Dev Sai
20. Shri Abdul Rashid Shaheen
21. Shri Ram Naresh Tripathi
22. Shri Ram Chandra Veerappa
23. Shri Sahib Singh Verma
24. Shri Tejveer Singh
25. Shri Kishan Lal Diler

* Shri Shyamlal Bansiwala ceased to be a member of the Committee due to his demise w.e.f. 22.5.2001.

(iv)

26. Shri Ramshakal
27. Shri Rama Mohan Gadde
28. Shri P.D. Elangovan
- *29. Shri Dalit Ezhilmalai
- **30. Shri Ramsagar Rawat

Rajya Sabha

31. Shri W. Angou Singh
32. Shri Abdul Gaiyur Qureshi
33. Shri Lajpat Rai
34. Shri Dawa Lama
35. Shri M.A. Kadar
36. Shri Kaushok Thiksey
37. Shri D.P. Yadav
38. Shri Vijay Singh Yadav
39. Smt. Bimba Raikar
40. Dr. A.K. Patel
41. Shri Ghanshyam Chandra Kharwar
- ***42. Smt. Gurcharan Kaur
43. Vacant
44. Vacant
45. Vacant

SECRETARIAT

1. Shri John Joseph — *Additional Secretary*
2. Shri Harnam Singh — *Joint Secretary*
3. Shri A.S. Chera — *Deputy Secretary*
4. Shri R.S. Mishra — *Under Secretary*
5. Smt. Manju Chaudhry — *Committee Officer*

* Nominated to the Committee w.e.f. 7.8.2001 *vide* Lok Sabha Bulletin Part II (Para No. 2117 dated 7th August, 2001).

** Nominated to the Committee w.e.f. 11.9.2001 in place of Shri Akhilesh Yadav, M.P. *vide* Lok Sabha Bulletin Part-II (Para No. 2236 dated 11 September, 2001).

*** Nominated to the Committee w.e.f. 3.8.2001 *vide* Rajya Sabha Bulletin Part II (Para No. 39049 dated 3rd August, 2001).

INTRODUCTION

I, the Chairman of the Standing Committee on Food, Civil Supplies and Public Distribution 2001 having been authorized by the Committee to submit the Report on their behalf, present this 12th Report on "The Consumer Protection (Amendment) Bill, 2001" of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs.

The Bill was referred to the Committee by Hon'ble Speaker, Lok Sabha on 10.5.2001 under Rule 331E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and Report.

The Committee considered the Bill clause-by-clause at their sitting held on 22.10.2001. The Report was considered and adopted by the Committee on 22.10.2001.

The Committee wish to express their thanks to the various Organisation and officers of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs for placing before them detailed written notes on the subject and for furnishing the information of the Committee desired in connection with the examination of the Bill.

NEW DELHI;
30 October, 2001
7 Kartika, 1923 (Saka)

DEVENDRA PRASAD YADAV,
Chairman,
Standing Committee on Food,
Civil Supplies and Public Distribution.

CHAPTER I

INTRODUCTORY

The Consumer Protection (Amendment) Bill, 2001 as introduced in Rajya Sabha on 26.4.2001 was referred to the Standing Committee on Food, Civil Supplies and Public Distribution for examination and report.

1.2 Giving an account of the history of consumer movement in India, the Department of Consumer Affairs in a note furnished to the Committee informed that the consumer movement in India is as old as trade and commerce. In Kautilya's Arthshastra, there are references to the concept of protection of the consumer against exploitation by trade and industry, short weightment and measurements, adulteration and punishment of these offences. However, there was no organized and systematic movement actually safeguarding the interests of the consumers. Prior to independence, consumer interests were considered mainly under laws like the Indian Penal Code, Agricultural Production Grading and Marketing Act, 1937, Drugs and Cosmetics Act, 1940, etc. Even though, different parts of India had different levels of awareness, in general, the level of awareness was low.

2. Consumer Welfare Related Legislations

1.3 Activities and functions of many Ministries/Departments have a bearing on consumer welfare. Several Legislations have been framed to safeguard the interests of the consumers either directly or indirectly and these Legislations are administered by different Ministries/Departments in the Central and State Governments, e.g. the Drugs & Cosmetics Act, 1940, the Prevention of Food Adulteration Act, 1954 (Ministry of Health), the Monopolies & Restrictive Trade Practices Act, 1969 (Department of Company Affairs), Agriculture Produce (Grading & Marketing) Act (Ministry of Agriculture), The Trade & Merchandise Act, 1958 (Ministry of Industry & Commerce) etc. The Department of Consumer Affairs, being the nodal Ministry in the field of consumer protection, takes up consumer related matters with different Ministries/Departments in order to take care of the interest of the consumers.

3. The Consumer Protection Act, 1986

1.4. One of the most important milestones in the consumer movement in the country has been the enactment of the Consumer Protection Act, 1986. This Act was necessitated because the well organized sectors of manufacturers, traders and service providers, armed with knowledge of the market and manipulative skills, often attempt to exploit the consumers, despite the existence of provisions in different laws protecting their interests. Moreover, various factors including increase in the population resulted in enormous pendency and delay in disposal of cases in the civil courts. Consumers cannot be asked to wait for years for settlement of even small claims. Hence, the Consumer Protection Act, 1986 was enacted to better protect the interest of the consumers. It is one of the most progressive and comprehensive pieces of legislation and it is an umbrella legislation covering all goods and services. The Act provides for a separate three-tier quasi-judicial consumer dispute redressal machinery at the National, State and District levels and is intended to provide simple, speedy and inexpensive redressal for consumers' grievances.

4. Brief Background relating to the Consumer Protection Act, 1986

1.5 The Consumer Protection Act, 1986 which provides for the setting up of a three-tier quasi-judicial machinery at the National, State and District level to deal with consumer complaints against defective or hazardous goods, deficient services, unfair trade practices, etc. and also provides for the setting up of Consumer Protection Councils at the Central and State level which are Advisory Bodies to promote and protect the rights of consumers. The Act was amended in 1991 and 1993 in the light of the experience gained during the implementation of the provisions of the Act.

1.6 Although effective use of the redressal agencies has been made by consumers, a number of practical difficulties have been brought to the notice of the Central Government including the pronouncements of Consumer Redressal Forums, High Courts and the Supreme Court which has bearing on the working of the redressal agencies. On the recommendation of the Central Consumer Protection Council, a Working Group was constituted by Government in June, 1994 under the Chairmanship of Shri Naren De, Minister of Food and Civil Supplies, Government of West Bengal, to examine the need for further change in the Consumer Protection Act, 1986. Suggestions were also invited from the State Governments, members of the Central Consumer Protection Council, Presidents of the State Commission and District Forums and Voluntary Consumer Organizations. All these suggestions were considered by then Working Group, which submitted its report in May, 1995.

1.7 Proposals for amendment of the Consumer Protection Act, 1986 were formulated on the basis of the recommendations of the Working Group and also those of an Expert Group set up in July, 1997. Extensive consultations were held with representatives of consumer interests, President of the National Commission and State Commissions and all the concerned Ministries of the Central Government. The Amendment Bill was finally introduced in the Rajya Sabha on 26.4.2001.

5. Major Objectives of the Amendments

1.8 The major objectives of the present amendments being proposed are:—

- (i) Facilitating quicker disposal of complaints. Delay in disposal of cases by the redressal agencies at the District, State and National level which were expected to undertake speedy disposal of consumer complaints has been a cause of major concern.
- (ii) Enhancing the capability of the redressal agencies.
- (iii) Widening the scope of various provisions of the Consumer Protection Act to make it more effective.
- (iv) Strengthening or clarifying the powers of the redressal forums.
- (v) Streamlining the procedure, removing lacunae and bringing clarity to certain provisions.

1.9 The Committee examined the Consumer Protection (Amendment) Bill, 2001 at its various sittings. The Committee invited representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) and Ministry of Law, Justice and Company Affairs (Legislative Department). The Committee also heard the views of the (i) Citizen Consumer and Civic Action Group; (ii) Voluntary Organization in the Interest of Consumer Education; (iii) Consumer Coordination Council; (iv) Consumer Columnist (Smt. Pushpa Girimaji); (v) Consumer Association of India; (vi) Justice Lokeshwar Prasad, President, Delhi State Consumer Disputes Redressal Commission; (vii) Justice K.C. Bhargava, President, U.P. State Consumers Disputes Redressal Commission; (viii) Shri A.C. Nirankar, Advocate; and (ix) Shri U.P. Sharma, Advocate-Legal Advisor.

1.10 During the course of discussions on the Bill, the main aim of the Committee has been to facilitate the consumers with quicker disposal of their complaints and to remove the hindrances that are causing delay in disposal of cases by the redressal agencies at the District, State and National levels. The Committee sought clarifications from the representatives of the Ministry of Consumer Affairs, Food and Public Distribution in this regard.

1.11 The Committee note that the Consumer Fora were established to protect a large number of consumers from exploitation. However, the device adopted by the Government to help the consumers has failed for want of proper receipt for the goods sold or services rendered to them. It has been observed that not only in remote and rural areas but also in towns, the consumers do not get the receipt for goods purchased and services availed by them and thus they are deprived of their rights to go to a Consumer Court in case of cheating. The Committee, therefore, strongly recommend that the Central Government in consultation with the State Governments should devise ways and means to make it mandatory for goods sellers and service providers to issue receipts for the items sold and services rendered. For this, vigorous efforts should be made to awaken the consumers about their rights.

1.12 The Committee note with concern that a large number of District Fora which were established for the redressal of grievances of the consumers within stipulated time are still non-functional. The Committee is of the opinion that if the grievances of a consumer is not timely redressed, the very purpose of establishment of Consumer Court is defeated as 'justice delayed is justice denied'. The Committee has, therefore, come to the conclusion that the Government should make efforts to make the non-functional District Fora functional without further loss of time.

1.13 The Committee is also of the opinion that vigorous efforts should be made to ensure that in no case the vacancy of member in Courts should be for more than one month. However, in case of unavoidable procedural delay, the present incumbent of the court should be allowed to continue till new appointment is made which in turn will check the piling of cases of Consumer Courts.

1.14 The Committee further note that the Consumer Disputes Redressal Agencies established under the Consumer Protection Act, 1986 lack infrastructural facilities such as proper building, adequate secretarial assistance etc. which in turn affects the efficiency of these agencies and ultimately results in reduction of their output/disposal of cases. Also, the Consumer Disputes Redressal Agencies have not been provided with financial and administrative autonomy. Even in routine matters and petty sanction, the redressal agencies have to look to the Administrative Departments which in turn hamper day to day functioning of these agencies. The Committee, therefore, strongly recommend that in order to check delays in disposal of cases by the redressal agencies the Government should persuade the State Governments to provide necessary infrastructural facilities to the District fora and State Commissions without further delay. Also administrative and financial powers should be vested in the Presidents of the State Commissions and the District Fora so that day to day functioning of these redressal agencies do not suffer. The Committee, therefore, desires that Section 24 (B) of the Consumer Protection Act, 1986 should be suitably amended.

CHAPTER II

REPORT

2.1 The Committee considered the Bill clause by clause.

Clause 2

Section 2(o) of the Consumer Protection Act, 1986 states as under:

"Service" means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.

2.2 Clause 2 of the Consumer Protection (Amendment) Bill, 2001 proposes to substitute the words "users and includes the provisions of" by the words "users and includes, but not limited to, the provisions of".

2.3 The Committee considered the amendment proposed by the Government in detail and felt that some of the services like Medical Services, Employees Provident Fund, General Provident Fund, Education, Educational Institutions, Postal Service, Basic Amenities, Provision and Maintenance of Streets, Street Lights, Drainage etc. should be included in the list and recommend that after the word "news" the words "Health and medical Services; Employees Provident Fund, General Provident Fund, Education, Postal Service, Basic Amenities, etc." and the matter incidental thereto should be added. The Committee are also of the opinion that uninterrupted advertisements in this regard should be given to make the consumers of the remote and rural areas aware of their rights.

Clause 3

2.4 Section 3 of the Consumer Protection Act, 1986 states that "the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force". Clause 3 of the Consumer Protection (Amendment) Bill, 2001 proposes to substitute the aforesaid section of the Principal Act which says "The provisions of this Act shall apply to all claims except claims in respect of which corresponding remedies of judicial nature are available under any special law for the time being in force."

2.5 The Committee deliberated the amendment proposed by the Government in detail. After hearing the views of the experts, the Committee have noted that the proposed substitution of Section 3 is against the consumer interest. In the opinion of the Committee, exclusion of cases from the purview of Consumer Courts in regard to which similar remedies are available under special laws, will harass the consumer in getting quick and inexpensive justice instead of helping him. For instance a consumer will have to move a long distance and incur heavy expenditure as Tribunals etc. set up by the Government are in State capitals only whereas District Fora are available in Every District. In view of the Committee, as per proposed amendment, a consumer will have to move a long distance for redressal of his grievances which will be very expensive. Thus, the very purpose of the establishment of District Fora for providing quick and less expensive grievance redressal machinery to a consumer will be defeated.

The Committee, therefore, strongly recommend that the proposed amendment to Section 3 of the Consumer Protection Act, 1986 should be withdrawn.

Clause 7

2.6 Clause 7 (b) of the Consumer Protection (Amendment) Bill, 2001 states that "two other members, one of whom shall be a woman, who shall have the following qualifications, namely:—

- (i) be not less than thirty-five years of age,
- (ii) possess a bachelor's degree from a recognized University,
- (iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration."

In the opinion of the Committee the qualifications prescribed under this clause is for all the members including the woman member, The Committee, therefore, recommend that the word "who" from clause 7 (b) of the Bill should be deleted.

Clause 7 (2)

2.7 Clause 7 (2) of the Consumer Protection (Amendment) Bill, 2001 states that "Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier:

"Provided that a member shall be eligible for re-appointment of another term of five years or upto the age of sixty-five years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is also made on the basis of the recommendation of the Selection Committee."

2.8 During discussion on Clause 7 (2) of the Amendment Bill, the Ministry has clarified that the purpose of said substitution is to provide for re-appointment of Presidents/Members for utilisation of the experience of the existing Presidents/Members for a longer period. The Ministry further clarified that the said provisions have also been substituted in case of State Commissions and the National Commission. The Committee, Therefore, urge the Government to include the word 'President' wherever the word 'Member' has been reflected in Clause 7 (2) of the Bill for the sake of clarity.

Clause 12 (2)

2.9 Clause 12 (2) of the Consumer Protection (Amendment) Bill, 2001 provides that "Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed."

2.10 The Committee discussed the issue in detail. In their opinion, Consumer Courts have been established with a view to provide justice to poor consumer free of cost. Through this insertion the Government has sought to change the basic objective of the establishment of these Courts and thus Consumer Courts will also run more or less on the pattern of Civil Courts. The reasons given by the Ministry that to expedite the disposal of complaints, collection of fee with the complaints is necessary to cover at least a part of the costs relating to process, service of notices, etc. is not acceptable to the Committee. The Committee is of the opinion that in case the Central Government wants to help the State Governments to earn some revenue for running these courts they may issue instructions to the courts to levy cost on decree with the defaulters.

2.11 The Committee, therefore, strongly recommend that proposed Clause 12 (2) of the Bill should be withdrawn in order to provide inexpensive justice to poor consumers.

Clause 13

2.12 Section 16 (1) (a), 16 (1) (b) and 16 (2) of the Consumer Protection Act, 1986 states that

“(1) Each state Commission shall consist of—

(a) a person who is or has been a Judge of a High Court, appointed by the State Government, who shall be its President:

[Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of the High Court.]

(b) two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman:

(2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the State Commission shall be such as may be prescribed by the State Government.”

Clause 13 of the Bill proposes that

2.13 “(a) In sub-section (1), for clause (b) and the proviso thereunder, the following clause shall be substituted, namely:-

(b) not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely:-

(i) be not less than thirty-five years of age;

(ii) possess a bachelor's degree from a recognized university; and

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that not more than fifty per cent of the members shall be from amongst persons having judicial background.”

2.14 The Committee discussed the proposed amendment in detail and arrived at the conclusion that for the words "not more than fifty percent" occurring in proposed proviso of sub-clause (1) of Clause 13, the words "not less than fifty percent" be substituted as each additional bench consisting of two members shall have to consist of one judicial member otherwise the constitution of such bench may indirectly come into conflict.

2.15 The Committee have been informed that the salaries and other perks for the Presidents of courts are being Governed by the existing laws in force whereas in case of salaries of Members it is left at the discretion of the State Governments. In the opinion of the Committee, this causes a lot of hindrance in quick disposal of cases in the Consumer Courts. Keeping in view the fact, the committee strongly recommend that the Central Government should persuade the State Governments to come out with a suitable scale of pay and allowances for the Members also, which should be commensurate to their working and also should be uniform in all the States as far as possible which in turn will attract qualified and talented persons to accept the post of Members.

NEW DELHI;
30 October, 2001
7 Kartika, 1923 (Saka)

DEVENDRA PRASAD YADAV,
Chairman,
Standing Committee on Food,
Civil Supplies and Public Distribution.

TO BE INTRODUCED IN THE RAJYA SABHA

Bill No. XLII of 2001

THE CONSUMER PROTECTION (AMENDMENT) BILL, 2001

A
BILL

further to amend the Consumer Protection Act, 1986.

Be it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Consumer Protection (Amendment) Act, 2001. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

68 of 1986

2. In the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act), in section 2, in sub-section (1),— Amendment of section 2.

(a) in clause (b), after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(v) in case of death of a consumer, his legal heir or representative;”;

(b) in clause (c),—

(i) in sub-clause (i), for the words “any trader”, the words “any trader or service provider” shall be substituted;

(ii) for sub-clauses (iv) and (v), the following sub-clauses shall be substituted, namely:—

"(iv) a trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price—

(a) fixed by or under any law for the time being in force;

(b) displayed on the goods or any package containing such goods;

(c) displayed on the price list exhibited by him by or under any law for the time being in force;

(d) agreed between the parties;

(v) goods which will be hazardous to life and safety when used or being offered for sale to the public,—

(A) in contravention of any standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;

(B) if the trader could have known with due diligence that the goods so offered are unsafe to the public;

(vi) services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety;";

(c) in clause (d),—

(i) in sub-clause (ii), the following words shall be inserted at the end, namely:—

"but does not include a person who avails of such services for any commercial purpose";

(ii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Explanation.— For the purposes of this clause, "commercial purpose" does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment;'

(d) for clause (i), the following clause shall be substituted, namely:—

'(j) "manufacturer" means a person who—

(i) makes or manufactures any goods or part thereof; or

(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others; or

(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer;'

(e) for clause (nn), the following clauses shall be substituted, namely:—

'(nn) "regulation" means the regulations made by the National Commission under this Act;'

(nnn) "restrictive trade practice" means a trade practice which tends to bring about manipulation of price or its conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include—

(a) delay beyond the period agreed to by a trader in supply of such goods or in providing

the service which has led or is likely to lead to rise in the price;

(b) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;

(f) in clause (o), for the words "users and includes the provision of", the words "users and includes, but not limited to, the provision of" shall be substituted:

(g) after clause (o), the following clause shall be inserted, namely:—

'(oo) "spurious goods and services" mean such goods and services which are claimed to be genuine but they are actually not so;'

(h) in clause (r),—

(i) after sub-clause (3), the following sub-clause shall be inserted, namely:—

"(3A) withholding from the participants of any scheme offering gifts, prizes or other items free of charge, on its closure the information about final results of the scheme.

Explanation.— For the purposes of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable tie, published, prominently in the same newspapers in which the scheme was originally advertised;'

(ii) after sub-clause (5), the following sub-clause shall be inserted, namely:—

"(6) manufacture of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services."

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 3.

"3. The provisions of this Act shall apply to all claims except claims in respect of which corresponding remedies of judicial nature are available under any special law for the time being in force."

Application
of the Act.

4. In section 4 of the principal Act, in sub-section (1), for the words "The Central Government may", the words "The Central Government shall" shall be substituted.

Amendment
of section 4.

5. In section 7 of the principal Act, in sub-section (1),—

Amendment
of section 7.

(a) in the opening portion, for the words "The State Government may", the words "The State Governments shall" shall be substituted;

(b) after clause (b), the following clause shall be inserted, namely:—

"(c) such number of other official or non-official members, not exceeding ten as may be nominated by the Central Government."

6. After section 8 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections 8A
and 8B.

"8A. (1) The State Government shall establish for every district, by notification, a council to be known as the District Consumer Protection Council with effect from such date as it may specify in such notification.

The District
Consumer
Protection
Council.

(2) The District Consumer Protection Council (hereinafter referred to as the District Council) shall consist of the following members, namely:—

(a) the Collector of the district (by whatever name called), who shall be its Chairman; and

(b) such number of other official and non-official members representing such interests as may be prescribed by the State Government.

(3) The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The District Council shall meet at such time and place within the district as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

Objects of
the District
Council.

8B. The objects of every District Council shall be to promote and protect within the district the rights of the consumers laid down in clauses (a) to (f) of section 6."

Amendment
of section
10

7. In section 10 of the principal Act,—

(a) in sub-section (f), for clause (b), the following clause shall be substituted, namely:—

"(b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely:—

(i) be not less than thirty-five years of age,

(ii) possess a bachelor's degree from a recognised university,

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Provided that a person shall be disqualified for appointment as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government

involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stand so declared by a competent court; 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, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the State Government;";

(b) in sub-section (1A), the following proviso shall be inserted, namely:—

"Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.";

(c) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier:

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-five years, whichever is earlier, subject to the condition that he fulfills the qualifications and other

conditions for appointment mentioned in clause (b) of sub-section (f) and such re-appointment is also made on the basis of the recommendation of the Selection Committee:

Provided further that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (f) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned:

Provided also that a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2001, shall continue to hold such office as President or member, as the case may be, till the completion of his term.":

(d) in sub-section (3), the following proviso shall be inserted, namely:—

"Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the District Forum."

Amendment
of section
11.

8. In section 11 of the principal Act, in sub-section (f), for the words "does not exceed rupees five lakhs", the words "does not exceed rupees twenty lakhs" shall be substituted.

Substitution
of new
section for
section 12.

9. For section 12 of the principal Act, the following section shall be substituted, namely:—

12 (1) A complaint in relation to any goods sold or delivered or agreed to be sold or

delivered or any service provided or agreed to be provided may be filed with a District Forum by—

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

Manner in which complaint shall be made.

(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the Central or the State Government.

(2) Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.

(3) On receipt of a complaint made under sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected:

Provided that a complaint shall not be rejected under this sub-section unless an opportunity of being heard has been given to be complainant:

Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

(4) Where a complaint is allowed to be proceeded with under sub-section (3), the District Forum may proceed with the complaint in the manner provided under this Act:

Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.

Explanation.— For the purposes of this section, “recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force. 1 of 1956

Amendment
of section
13.

10. In section 13 of the principal Act, in sub-section (f),—

(a) in the marginal heading, for the words “Procedure on receipt of complaint”, the words “Procedure on admission of complaint.” shall be substituted;

(b) in sub-section (f),—

(i) in the opening portion, for the words “on receipt of a complaint”, the words “on admission of a complaint” shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely:—

“(a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;”

(c) in sub-section (2).—

(i) in the opening portion, for the words "complaint received", the words "complaint admitted" shall be substituted;

(ii) in clause (b), in sub-clause (ii), for the words "on the basis of evidence", the words "*ex parte* on the basis of evidence", shall be substituted:

(iii) after clause (b), the following clause shall be inserted, namely:—

"(c) where the complainant fails to appear on the date of hearing before the District Forum, the District Forum may either dismiss the complaint for default or decide it on merits."

(d) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3A) Every complaint shall be heard as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities:

Provided that no adjournment shall be ordinarily granted by the District Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum:

Provided further that the District Forum shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act.

(3B) Where during the pendency of any proceeding before the District Forum, it appears to it necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.”;

(e) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) In the event of death of a complainant who is a consumer or of the opposite party against whom the complaint has been filed, the provisions of Order XXII of the First Schedule to the Code of Civil Procedure, 1908 shall apply subject to the modification that every reference therein to the plaintiff and the defendant shall be construed as reference to complainant or the opposite party, as the case may be.”

5 of 1908.

Amendment
of section
14.

11. In section 14 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (d), the following proviso shall be inserted, namely:—

“Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit;”;

(ii) in clause (e), for the words “remove the defects”, the words “remove the defects in goods” shall be substituted;

(iii) after clause (h), the following clauses shall be inserted, namely:—

“(ha) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;

(hb) to pay such sum as may be determined by it if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently;

Provided that the minimum amount of sum so payable shall not be less than five per cent of the value of such defective goods sold or service provided, as the case may be, to such consumers:

Provided further that the amount so obtained shall be credited in favour of such person and utilized in such manner as may be prescribed;

(hc) to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;"

(b) in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—

"Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member."

12. In section 15 of the principal Act, after the first proviso, the following proviso shall be inserted, namely:—

Amendment
of section
15.

"Provided further that 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 appellants has deposited in the prescribed manner fifty per cent of that amount or twenty-five thousand rupees, whichever is less."

Amendment
of section
16.

13. In section 16 of the principal Act,—

(a) in sub-section (1), for clause (b) and the proviso thereunder, the following clause shall be substituted, namely:—

“(b) not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualification, namely:—

(i) be not less than thirty-five years of age;

(ii) possess a bachelor’s degree from a recognised university; and

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.”

Provided that not more than fifty per cent. of the members shall be from amongst persons having a judicial background.

Explanation.— For the purposes of this clause, the expression “persons having judicial background” shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level.

Provided further that a person shall be disqualified for appointment as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; 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, in the opinion of the State Government, such financial or other interest, as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualification as may be prescribed by the State Government.”;

(b) after sub-section (I), the following sub-section shall be inserted, namely:—

“(IA) Every appointment under sub-section (I) shall be made by the State Government on the recommendation of a Selection Committee consisting of the following members, namely:—

(i) President of the State Commission.....Chairman;

(ii) Secretary of the Law Department of the State.....Member;

(iii) Secretary incharge of the Department dealing with Consumer Affairs in the State.....Member.

Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting judge of that High Court to act as Chairman.

(1B) (i) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof.

(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it.”;

(c) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the State Commission.”;

(d) for sub-section (3) and (4), the following sub-section shall be substituted, namely:—

“(3) Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier:

Provided that a member shall be eligible for re-appointment for another term of five

years or up to the age of sixty-seven years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (f) and such re-appointment is made on the basis of the recommendations of the Selection Committee:

Provided further that a person appointed as President of the State Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (f) of this section;

Provided also that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (f) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2001, shall continue to hold such office as President or member, as the case may be, till the completion of his term."

14. Section 17 of the principal Act shall be renumbered as sub-section (f) and in sub-section (f) as so renumbered,—

Amendment
of section
17.

(a) in clause (a), in sub-clause (i), for the words "exceeds rupees five lakhs but does not exceed rupees twenty lakhs", the words "exceeds rupees twenty lakhs but does not exceed rupees one crore" shall be substituted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction,—

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided that in such case either the permission of the State Commission is given or the opposite parties who do not reside or carry on business or have a branch office or personally work for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.”.

Insertion of new sections 17A and 17B.

15. After section 17 of the principal Act, the following sections shall be inserted, namely:—

Transfer of cases.

“17A. On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before the District Forum to another District Forum within the State if the interest of justice so requires.

Circuit Benches.

17B. The State Commission shall ordinarily function in the State Capital but may perform its functions at such other place as the State

Government may, in consultation with the State Commission, notify in the Official Gazette, from time to time."

16. Section 18A of the principal Act shall be omitted.

Omission of section 18A.

17. In section 19 of the principal Act, after the first proviso, the following proviso shall be inserted, namely:—

Amendment of section 19.

"Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the prescribed manner fifty per cent. of the amount or rupees thirty-five thousand, whichever is less."

18. After section 19 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 19A.

"19A. An appeal filed before the State Commission or the National Commission shall be heard as expeditiously as possible and an endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its admission:

Hearing of appeal.

Provided that no adjournment shall be ordinarily granted by the State Commission or the National Commission, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission:

Provided further that the State Commission or the National Commission, as the case may be, shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act."

Amendment
of section
21.

19. In section 20 of the principal Act,—

(a) in sub-section (1), for clause (b) and the proviso, the following clause shall be substituted, namely:—

(b) not less than four, and not more than such number of members, as may be prescribed, and one of whom shall be woman, who shall have the following qualifications, namely:—

(i) be not less than thirty-five years of age;

(ii) possess a bachelor's degree from a recognised university; and

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration;

Provided that not more than fifty per cent. of the members shall be from amongst the persons having a judicial background.

Explanation.— For the purposes of this clause, the expression "persons having judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:

Provided further that a person shall be disqualified for appointment if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves normal turpitude; or

(b) is on undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; 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 in the opinion of the Central Government such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the Central Government:

Provided also that every appointment under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following, namely:—

- (a) a person who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India — Chairman;
- (b) the Secretary in the Government of Legal Affairs in the Government of India — Chairman;
- (c) Secretary of the Department dealing with consumer affairs in the Government of India — Member;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) (i) The jurisdiction, powers and authority of the National Commission may be exercised by benches thereof.

(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) if the Members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.”;

(c) for sub-section (3) and (4), the following sub-section shall be substituted, namely:—

“(3) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier.

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of seventy years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (i) and such re-appointment is made on the basis of the recommendation of the Selection Committee:

Provided further that person appointed as a President of the National Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1):

Provided also that a member may resign his office in writing under his hand addressed to the Central Government and on such resignation being accepted, his office shall become vacant and may be filled by

appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 2001 shall continue to hold such office as President or member, as the case may be, till the completion of his term."

20. In section 21 of the principal Act, in clause (a), in sub-clause (i), for the words "rupees twenty lakhs", the words "rupees one crore" shall be substituted.

Amendment of section 21.

21. For section 22 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 22.

"22. (1) The provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Commission.

Power and procedure applicable to the National Commission.

(2) Without prejudice to the provisions contained in sub-section (1), the National Commission shall have the power to review any order made by it, when there is an error apparent on the face of record.

22A. Where an order is passed by the National Commission *ex parte* against the opposite party or a complainant, as the case may be, the aggrieved party may apply to the Commission to set aside the said order in the interest of justice.

Power to set aside *ex parte* orders.

Transfer of cases.

22B. On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Forum of one State to a District Forum of another State or before one State Commission to another State Commission.

Circuit Benches.

22C. The National Commission shall ordinarily function at New Delhi and perform its functions at such other place as the Central Government may, in consultation with the National Commission, notify in the Official Gazette, from time to time.

Vacancy in the office of the President.

22D. When the office of President of a District Forum, State Commission, or of the National Commission, as the case may be, is vacant or a person occupying such office is, by reason of absence or otherwise, unable to perform the duties of his office, these shall be performed by the senior most member of the District Forum, the State Commission or of the National Commission, as the case may be:

Provided that where a retired Judge of a High Court is a member of the National Commission, such member or where the number of such members is more than one, the senior-most person among such members, shall preside over the National Commission in the absence of President of that Commission."

Amendment of section 23.

22. In section 23 of the principal Act, after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited in the prescribed manner fifty per cent. of that amount or rupees fifty thousand, whichever is less."

23. For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. (1) Where an interim order made under this Act, is not complied with the District Forum or the State Commission or the National Commission, as the case may be, may order the property of the person, not complying with such order to be attached.

(2) No attachment made under sub-section (1) shall remain in force for more than three months at the end of which, if the non-compliance continues, the property attached may be sold and out of the proceeds thereof, the District Forum or the State Commission or the National Commission may award such damages as it thinks fit to the complainant and shall pay the balance, if any, to the party entitled thereto.

(3) Where any amount is due from any person under an order made by a District Forum, State Commission or the National Commission, as the case may be, the person entitled to the amount may make an application to the District Forum, the State Commission or the National Commission, as the case may be, and such District Forum or the State Commission or the National Commission may issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue.”.

Substitution
of new
section for
section 25.
Enforcement
of orders
of the
District
Forum, the
State
Commission
or the
National
Commission.

24. In section 27 of the principal Act,—

(a) the proviso shall be omitted;

(b) after the proviso so omitted, the existing section 27 shall be renumbered as sub-section (1), and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

Amendment
of section
27.

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Forum or the State Commission or the National Commission as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the Code of Criminal Procedure, 1973.

(3) All offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be."

Insertion of
new section
28A.

25. After section 28 of the principal Act, the following section shall be inserted, namely:—

Service of
notice, etc.

"28A. (1) All notices required by this Act to be served shall be served in the manner hereinafter mentioned in sub-section (2).

(2) The service of notices may be made by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service as are approved by the District Forum, the State Commission or the National Commission, as the case may be, or by any other means of transmission of documents (including FAX message).

(3) When an acknowledgment or any other receipt purporting to be signed by the opposite party or his agent or by the complainant is received by the District Forum, the State Commission or the National Commission, as the case may be, or postal article containing the notice is received back by such District

Forum, State Commission or the National Commission, with an endorsement purporting to have been made by a postal employee or by any person authorized by the courier service to the effect that the opposite party or his agent or complainant had refused to take delivery of the postal article containing the notice or had refused to accept the notice by any other means specified in sub-section (2) when tendered or transmitted to him, the District Forum or the State Commission or the National Commission, as the case may be shall declare that the notice had been duly served on the opposite party or to the complainant:

Provided that where the notice was properly addressed, pre-paid and duly sent by registered post acknowledgment due, a declaration referred to in this sub-section shall be made notwithstanding the fact that the acknowledgment has been lost or mislaid or for any other reason, has not been received by the District Forum, the State Commission or the National Commission, as the case may be, within thirty days from the date of issue of notice.

(4) All notices required to be served on an opposite party or to complainant shall be deemed to be sufficiently served, if addressed in the case of the opposite party to the place where business or profession is carried and in case of complainant, the place where such person actually and voluntarily resides."

26. In section 29 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

Amendment
of section
29.

"(3) If any difficulty arises in giving effect to the provisions of the Consumer Protection (Amendment) Act, 2001, the Central Government may, by order, do anything not

inconsistent with such provisions for the purpose of removing the difficulty:

Provided that so such order shall be made after the expiry of a period of two years from the commencement of the Consumer Protection (Amendment) Act, 2001.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.”.

Insertion of new section 29B.

Right to legal representation.

27. After section 29A of the principal Act, the following section shall be inserted, namely:-

“29B. Notwithstanding anything contained in any law, the opposite party before a District Forum, the State Commission or the National Commission, as the case may be, shall not be entitled, to be represented by a legal practitioner except when the complainant—

(a) has engaged a legal practitioner; or

(b) is himself a legal practitioner; or

(c) has no objections to the opposite party engaging a legal practitioner.”.

Substitution of new section for section 30.

Power to make rules.

28. For section 30 of the principal Act, the following section shall be submitted, namely:—

“30 (1) The Central Government may, by notification, make rules for carrying out the provisions contained in clause (a) of sub-section (1) of section 2, clause (b) of sub-section (2) of section 4, sub-section (2) of section 5, sub-section (2) of section 12, clause (vi) of sub-section (4) of section 13, clause (hb) of sub-section (1) of sections 14, section 19, clause (b) of sub-section (1) and sub-section (2) of section 20, section 22 and section 23 of this Act.

(2) The State Government may, by notification make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7, clause (b) of sub-section (2) and sub-section (4) of section 8A, clause (b) of sub-section (1) and sub-section (3) of section 10, clause (c) of sub-section (1) of section 13 clause (hb) of sub-section (1) and sub-section (3) of section 14, section 15 and clause (b) of sub-section (1) and sub-section (2) of section 16 of this Act."

29. After section 30 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 30A.

"30A. (1) The National Commission may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Power of the National Commission to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may make provisions for the cost of the adjournment of any proceeding before the District Forum, the State Commission or the National Commission, as the case may be, which a party may be ordered to pay."

30. For section 31 of the principal Act, the following section shall be submitted, namely:—

Substitution of new section for section 31.

"31 (1) Every rule and every regulations made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive

Rules and regulation to be laid before each House of Parliament.

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature."

STATEMENT OF OBJECTS AND REASONS

The enactment of the Consumer Protection Act, 1986 was an important milestone in the history of the consumer movement in the country. The Act was made to provide for the better protection and promotion of consumer rights through the establishment of Consumer Councils and quasi-judicial machinery. Under the Act, consumer disputes redressal agencies have been set up throughout the country with the District Forum at the district level, State Commission at the State level and National Commission at the National level to provide simple, inexpensive and speedy justice to the consumers with complaints against defective goods, deficient services and unfair and restrictive trade practices. The Act was also amended in the years 1991 and 1993 to make it more effective and purposeful.

2. Although the consumer disputes redressal agencies have to a considerable extent, served the purpose for which they were created, the disposal of cases has not been fast enough. Several bottlenecks and shortcomings have also come to light in the implementation of various provisions of the Act. With a view to achieving quicker disposal of consumer complaints by the consumer disputes redressal agencies securing effective implementation of their orders, widening the scope of some of the provisions of the Act to make it more effective, removing various lacunae in the Act and streamlining the procedures, amendments are proposed in the Act, which *inter alia*, include the following namely:—

- (i) exclusion of the jurisdiction of the consumer disputes redressal Agencies in respect of claims for which corresponding provisions in the special laws exist for the protection of interests of consumers;
- (ii) provisions for creation of Benches of the National Commission and State Commissions as well as holding of circuit benches of these Commissions.
- (iii) prescribing the period within which complaints are to be admitted, notices are to be issued to opposite party and the complaints are to be decided. Similar provisions have been proposed also in respect of appeals;

- (iv) no adjournment to be ordinarily allowed and allowed where, a speaking order giving reasons would be made;
- (v) enhancing the pecuniary limits of jurisdiction of the consumer disputes redressal agencies so that the District Forums are unable to deal with complaints involving value of goods or services and claims compensation up to Rs. 20 lakhs (against Rs. 5 lakhs at present), fixing the pecuniary limits of jurisdiction of State Commissions from Rs. 20 lakhs upto Rs. 1 crore (as against above Rs. 5 lakhs upto Rs. 20 lakhs at present) and National Commission above Rs. 1 crore (as against above Rs. 20 lakhs at present);
- (vi) enabling provision for charging of fee in respect of complaints filed before the consumer disputes redressal agencies;
- (vii) provision for depositing, either fifty per cent, of the amount of compensation or fine or the amounts mentioned below whichever are less, before the admission of appeal, namely:—
 - (a) Rs. 25,000 in case of appeal to a State Commission from the District Forum;
 - (b) Rs. 35,000 in case of an appeal to the National Commission from a State Commission; and
 - (c) Rs. 50,000 in case of appeal to the Supreme Court from the National Commission;
- (viii) exclusion of services availed for commercial purposes from the purview of the consumer disputes redressal agencies;
- (ix) permitting the engagement of legal practitioner by an opposite party only if the complainant is himself a legal practitioner or he engages a legal practitioner or he has no objection to the opposite party engaging a legal practitioner;
- (x) prescribing minimum qualifications as well as disqualifications for members of the consumer disputes redressal agencies;
- (xi) provision for re-appointment of President and Members of the District Forum, State Commissions and the National Commission, for another term of the five years;

- (xii) extending the provisions of the Act to service providers indulging in unfair or restrictive trade practices or offering services which are hazardous;
- (xiii) bringing sale of spurious goods or services within the meaning of unfair trade practices;
- (xiv) expressly conferring the powers of a Judicial Magistrate of the first class on the consumer disputes redressal agencies with a view to trying offences under the Act;
- (xv) provision for recovery of amounts order to be paid by the consumer disputes redressal agencies as arrears of land revenue;
- (xvi) provision for issue of interim orders by the consumer disputes redressal agencies, in cases where it is considered necessary by such agencies;
- (xvii) provision for substitution of legal heir or representative as a party to the complaint in the event of the death of the complainant or the opposite party.

3. The Consumer Protection Councils at the Central and State levels are important bodies for the promotion and protection of consumer rights. It is proposed to make the establishment of these Councils a necessary requirement. It is also proposed to provide for the establishment of District Consumer Protection Councils for promotion and protection of consumer rights at the district level.

4. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
The 20th April, 2001.

SHANTA KUMAR

Notes on clauses

Clause 2 of the Bill seeks to amend sub-section (1) of section 2 of the Consumer Protection Act, 1986 so as to define various expressions used in the Act. The scope of some of the definitions has been broadened and some new definitions have been added.

Sub-clause (a) of clause 2 seeks to include the legal heir or representative of a consumer, in case of death of the consumer within the meaning of "complainant". Sub-clause (b) seeks to broaden the definition of "complaint" to include the allegations against service providers of adopting unfair or restrictive trade practices, or charging of excess price or offering services which are hazardous to life and safety. Sub-clause (c) seeks to exclude from the definition of "consumer" any person who avails of services for commercial purposes. Commercial undertakings which are already excluded from approaching the redressal agencies in respect of defective goods will thus be excluded from seeking relief from such agencies in respect of deficient services as well. The Consumer Protection Act, 1986 is intended primarily to serve the interests of individual consumers. Sub-clause (d) of this clause seeks to amend the definition of "manufacturer" to include any manufacturer who assembles goods from parts made by others or puts his mark on any goods made or manufactured by any other manufacturer whether he claims such goods to be manufactured by himself or not. Sub-clause (e) of this clause seeks to enlarge the definition of "restrictive trade practice" to mean manipulation of price or delivery or flow of supplies leading to unjustified cost and restriction on the consumers and includes delay beyond the agreed period which has led or is likely to lead to rise in the price. Sub-clause (h) of this clause also seeks to enlarge the definition of "unfair trade practice" to include withholding of information about final results of any scheme offering gifts, prizes, or other items free of charge, and manufacture or spurious goods and sale of spurious goods or adoption of deceptive practices in the provision of services. Sub-clause (g) seeks to define "spurious goods and services" as goods and services which are claimed to be genuine but are actually not so. Sub-clause (e) seeks to define "regulation" as regulation made by the National Commission. Sub-clause (f) further seeks to bring more clarity to the definition of "service" by clarifying that the services mentioned are only illustrative.

Clause 3 seeks to substitute a new section for section 3 so as to provide that the provisions of this Act shall not apply where a corresponding remedy of judicial nature is available to person under a special law.

Clauses 4 and 5 seek to amend sections 4 and 7 respectively so that establishment of the Central Consumer Protection Council and the State Consumer Protection Council which is in the larger interests of consumers becomes a necessary requirement. *Clause 4* also seeks to provide for inclusion of up to ten official and non-official members nominated by the Central Government in the State Council.

Clause 6 seeks to insert new sections 8A and 8B to provide for the setting up a District Consumer Protection Council for every district with objects similar to those of the Central and State Councils. This will provide a forum for promoting and protecting the rights of consumers at grass root level.

Clauses 7 seeks to make amendments in section 10 to provide minimum age of thirty-five years, minimum qualification of graduation and minimum experience of ten years for members of the District Forum. It also seeks to provide disqualifications for the office of member. It seeks to make a new proviso to sub-section (1A) to provide that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court who shall nominate a sitting Judge of that High Court to act as a Chairman to avoid delay in selection. It also seeks to amend sub-section (2) to provide for reappointment of Presidents and Members to enable utilisation of their experiences for a longer period. It also seeks to provide that persons already holding office of President or Member will continue to hold such office till the completion of their term. It further seeks to amend sub-section (3) to provide that the State Government shall appoint a member on whole-time basis on the recommendations of the President of the State Commission taking into consideration the workload and other factors as may be prescribed.

Clause 8 seeks to amend section 11 to enhance the jurisdiction of the district forum to entertain complaints where the value of the goods or services and the compensation claimed does not exceed rupees twenty lakhs. This will be more convenient for the complainants and also reduce the number of complaints filed with the State Commission and National Commission.

Clause 9 seeks to substitute section 12 to provide that every complaint filed with the District Forum shall be accompanied with such amount of fee as may be prescribed. It also seeks to provide that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint is received and that once admitted a complaint shall not be transferred to any other Court or Tribunal. This will help to quicken disposal of complaints.

Clause 10 seeks to amend section 13 to require the District Forum to refer a copy of the admitted complaint within twenty-one days from the date of its admission to the opposite party give his version. It also seeks to make explicit the provision for *ex-parte* order. It seeks to include a new sub-section (3A) to provide that complaint shall be heard as expeditiously as possible and endeavour made to decide the complaints within the prescribed period. Adjournments would ordinarily not be granted, and if granted for reasons to be recorded in writing by the forum, an order as to the costs occasioned by the adjournment would also be made by the forum. It further seeks to include a new sub-section (3B) to enable the District Forum to pass interim orders where required. It also seeks to include a new sub-section (7) for the substitution of parties in accordance with the provisions of Order XXII of the First Schedule to the Code of Civil Procedure, 1908 in the event of death of the complainant or opposite party. These amendments will facilitate quicker disposal of cases, enable complainants to get immediate relief where required, and streamline procedures.

Clause 11 seeks to amend section 14 to empower the District Forum if it is satisfied that the allegations contained in the complaint are proved, also to issue orders directing the opposite party, *inter alia*, to pay punitive damages, cease manufacture of hazardous goods and desist from offering services which are hazardous in nature, pay such sum not less than five per cent, of the value of defective goods sold or services provided where loss or injury has been suffered by a large number of consumers who are not conveniently identifiable, and to issue corrective advertisement to neutralise the effect of misleading advertisement. It also seeks to amend sub-section (2) to do away with the requirement of *de novo* proceedings if a member is unable to conduct the proceedings till it is completed and allow the proceedings to continue from the stage it was last heard by the previous member. This will avoid delay in disposal of such cases.

Clause 12 seeks to insert a new proviso in section 15 to provide that 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 appellants deposits fifty per cent of the amount or twenty-five thousand rupees, whichever is less.

Clause 13 seeks to make amendments in section 16 to make the same provisions with regard to qualifications and disqualifications of members, chairmanship of the Selection Committee, re-appointment of Presidents and Members, resignation of members, completion of term of existing members and appointment of members on whole-time basis in respect of the State Commission as in the case of the District Forums. It also seeks to make provision to enable appointment of more than two members in the State Commission and creation of benches. This will facilitate quicker disposal of cases in State Commissions having a large number of cases.

Clause 14 seeks to amend section 17 so as to clarify the jurisdiction of the State Commission and also to raise its jurisdiction to entertain complaints where the value of goods or services and compensation claimed exceed rupees twenty lakhs does not exceed rupees one crore. At present the jurisdiction of the state Commission is above rupees five lakhs and up to rupees twenty lakhs. This will be convenient for the complainants and will reduce the number of complaints filed by the National Commission.

Clause 15 seeks to insert a new section 17A to empower the State Commission to transfer a case from one District Forum to another District Forum within the State if required for the ends of justice. It also seeks to insert another new section 17B to enable the State Commissions to hold Circuit Benches.

Clause 16 seeks to delete section 18A.

Clause 17 seeks to insert a new proviso in section 19 so that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the manner as prescribed by the State Governments fifty per cent of the amount or rupees thirty-five thousand, whichever is less.

Clause 18 seeks to insert a new section 19A to provide that endeavour shall be made to dispose of appeals filed before the State Commission or the National Commission within ninety days from the date of admission. It also further seeks to provide that no adjournment shall ordinarily be granted unless for sufficient reason for grant of adjournment has been recorded in writing and costs for such adjournment have also specified in order.

Clause 19 seeks to make amendments in section 20 to make the same provisions in respect of qualifications and disqualifications for members, reappointment of the Presidents and Members, resignation of members and completion of terms of existing members with regard to the National Commission as in the case of the State Commission and District Forum. Clause 16 also seeks to make provision to the appointment of more than four members and also creation of benches of the National Commission.

Clause 20 seeks to amend section 21 to provide that complaints may be filed before the National Commission where the value of the goods or services and compensation, if any, claimed exceeds rupees one crore. This is consequential to changes sought in the jurisdiction of the District Forum and State Commissions.

Clause 21 seeks to substitute section 22 so that the provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum, shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Commission. It also seeks to empower the National Commission to review any order made by it, when there is an error apparent on the face of record. These provisions will make the powers and procedures in respect of National Commission more explicit. It also seeks to insert new sections 22A, 22B, 22C and 22D. New section 22A empowers the National Commission to set aside *ex-parte* orders against the opposite party or complainant in the interest of justice. New section 22B empowers the National Commission to transfer any complaint pending before the District Forum of one State to a District Forum of another State or before one State Commission to another State Commission in the interest of justice. New section 22C enables the National Commission to hold Circuit Benches in any part of the country. New section 22D provides for the seniormost member to preside in the absence of the President of the District Forum, State Commission and National Commission, as the case may be, to ensure un-interrupted functioning of the Forum or Commission. However, in the case of National Commission, it provides that where a retired Judge of a High Court is a member or where number of such members is more than one, the seniormost amongst them shall preside over the Commission. These provisions will streamline the functioning of the Consumer Redressal Forums and also reduce the number of appeals to the Supreme Court from orders of the National Commission.

Clause 22 seeks to insert a new proviso in section 23 so that no appeal by a person, who is required to pay any amount in terms of an order of the National Commission, shall be entertained by the Supreme Court unless the appellant has deposited in the manner as prescribed by the Central Government fifty per cent of that amount or rupees fifty thousand, whichever is less.

Clause 23 seeks to substitute section 25 to provide for attachment by the District Forums, State Commission or National Commission, as the case may be, of the property of a person not complying with an interim order. It also seeks to provide that on application from any person entitled to receive any amount from another person under an order made by a District Forum, State Commission and National Commission which remains due, the District Forum, State Commission and National Commission, as the case may be, may issue a certificate to the Collector for recovery of the amount as arrears of land revenue. These new provisions are expected to overcome the delays and other difficulties faced in execution of orders of the redressal agencies through civil courts.

Clause 24 seeks to amend section 27 to empower the District Forum, State Commission and National Commission, as the case may be, with the powers of a Judicial Magistrate of the first class for the summary trial of offences under the Act notwithstanding anything contained in the Code of Criminal Procedure. This is considered necessary to clarify that the District Forums or State Commissions or National Commission can themselves try offences under the Act and impose penalty of imprisonment. It also seeks to delete the proviso to section 27 which empowers the redressal agencies to impose a sentence of imprisonment or fine lesser than the minimum prescribed.

Clause 25 seeks to insert a new section 28A so that all notices required by this Act can be served by using modern communication facilities including speed post, courier services and FAX messages. This will help to quicken proceedings.

Clause 26 seeks to insert a new sub-section (3) in section 29 to enable the Government to make orders to remove any difficulty with respect to the amended provisions of the Act for a period of two years after their coming into force.

Clause 27 seeks to insert a new section 29B to restrict the engagement of a legal practitioner by the opposite party. The opposite party cannot be represented by a legal practitioner unless the complainant has engaged a legal practitioner; the complainant is himself a legal practitioner, the complainant has no objection to the opposite party engaging a legal practitioner. This is expected to reduce the possibility of protected proceedings.

Clause 28 seeks to substitute a new section for section 30 to deal with the powers of the Central Government and the State Governments to make rules.

Clause 29 seeks to insert a new section 30A to empower the National Commission to make regulations with the previous approval of the Central Government where required for the purpose of giving effect to the provisions of the Act, and in particular to make provisions for the cost of adjournment of any proceedings before the District Forum, the State Commission or the National Commission, as the case may be, which a party may be ordered to pay.

Clause 30 seeks to substitute section 31 in respect of procedures for laying of rules and regulations made under the Act before each House of Parliament or the State Legislature as the case may be.

FINANCIAL MEMORANDUM

Clause 6 of the Bill seeks to insert new sections 8A and 8B in the Act to provide for the establishment of District Consumer Protection Councils at the district level. The responsibility for the establishment of District Consumer Protection Council lies with State Governments and Union territory administrations. It is not possible to indicate the exact expenditure involved at this stage since the exact amount for establishment of such Councils in the Union territories would vary depending on the size of the Council and other factors.

2. Clause 13 of the Bill seeks to amend section 16 of the Act with a view to enable the State Commissions to appoint more members and for constitution of benches of the State Commission. It is not possible to indicate the exact expenditure involved for appointment of additional members and for creation of benches in the Union territories as this would depend on the actual number of additional members appointed and additional benches constituted.

3. Clause 19 of the Bill seeks to amend section 20 of the Act with a view to enable the National Commission to appoint additional members and for constitution of benches of the National Commission. It is not possible to indicate the exact expenditure involved for appointment of additional members and constitution of benches as this would depend on the actual number of members appointed and additional benches constituted.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to insert new sections 8A and 8B with a view to providing for the establishment of District Consumer Protection Councils. The procedure for transaction of business in the said Council shall be such as may be provided in the rules to be made by the State Government.

2. *Clause 7* of the Bill seeks to amend section 10 of the Act to provide for disqualification for appointment of members of the District Forums. In addition to disqualification mentioned in the proviso to clause (b) of sub-section (1) of that section the State Governments are being empowered to prescribe such other disqualifications as they may deem fit.

Similar powers are being conferred on State Governments to prescribe disqualifications for appointment of members of the State Commission.

3. *Clause 9* of the Bill seeks to provide by amending section 12 of the Act that a complaint filed with the District Forum shall be accompanied with an amount of fee. The amount of fee and the manner in which such fee shall be payable will be provided in the rules to be made by the State Governments.

Similar provisions are being proposed in respect of complaints filed before the State Commissions wherein the State Governments are being empowered to make rules.

In respect of complaints filed before the National Commission the amount of fee and the manner in which such fees shall be payable will be provided in the rules to be made by the Central Government.

4. *Clause 11* of the Bill seeks to amend section 14 of the Act with a view to empowering the redressal agencies to direct the opposite party to pay such sum as may be determined by it if loss or injury has been suffered by a large number of consumers who are not identifiable. The State Governments are being empowered to prescribe by rules the manner in which such amount shall be credited and utilised where the District Forum or State Commission has ordered the opposite party to pay any sum under this provision.

Similar provisions are to be made by the Central Government where an order is passed by the National Commission in similar cases.

5. *Clause 12* of the Bill seeks to provide by amending section 15 of the Act that an appeal against an order of the District Forum shall be entertained by the State Commission only when the appellant has deposited the amount prescribed. The State Governments are being empowered under this provision to provide in the rules the manner in which such money shall be deposited.

Similar provisions are being made for empowering the Central Government to make rules where an appeal is to be preferred against an order of the State Commission to the National Commission and from the order of the National Commission to the Supreme Court.

6. *Clause 29* of the Bill seeks to insert a new section 30A in the Act with a view to providing that the National Commission may make regulations with the previous approval of the Central Government to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

7. The aforesaid matters in respect of which rules or regulations may be made are matters of detail and it is not practicable to provide for all the matters in the aforesaid Bill itself. Delegation of legislative power is, therefore, of normal character.

ANNEXURE

EXTRACTS FROM THE CONSUMER PROTECTION ACT, 1986
(68 OF 1986)

Definitions.

* * * * *

2. (1) in this Act, unless the context otherwise requires,—

* * * * *

(b) "complainant" means—

* * * * *

(c) "complaint" means any allegations in writing made by a complainant that—

(i) an unfair trade practice or a restrictive trade practice has been adopted by any traders;

* * * * *

(iv) a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods;

(v) goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring traders to display information in regard to the contents, manner and effect of use of such goods;

with a view to obtaining any relief provided by or under this Act;

(d) "consumer" means any person who,—

* * * * *

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned persons.

Explanation.—For the purposes of sub-clause (i), "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood by means of self-employment;

* * * * *

(j) "manufacturer" means a person who,—

(i) makes or manufactures any goods or parts thereof; or

(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others and claims the end-product to be goods manufactured by himself; or

(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer and claims such goods to be goods, made or manufactured by himself.

Explanation.—Where a manufacturer despatches any goods or part thereof to any branch office maintained by him, such branch

office shall not be deemed to be the manufacturer even though the parts so despatched to it are assembled at such branch office and are sold or distributed from such branch office;

* * * * *

(nn) "restrictive trade practice" means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods or services;

(o) "service" means service of any description which is made available to potential users and includes the provisions of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

* * * * *

(r) "unfair trade practice" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—

* * * * *

3. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being force.

Act not in
derogation
of any
other law.

CHAPTER II

CONSUMER PROTECTION COUNCILS

4. (1) The Central Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council).

The Central Consumer Protection Council.

(2) The Central Council shall consist of the following members, namely:—

(a) the Minister in charge of the Department of Food and Civil Supplies in the Central Government, who shall be its Chairman, and

(b) such number of other official or non-official members representing such interests as may be prescribed.

* * * * *

7. (1) The State Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council for.....(hereinafter referred to as the State Council).

The State Consumer Protection Councils.

(2) The State Council shall consist of the following members, namely:—

(a) the Minister incharge of consumer affairs in the State Government who shall be its Chairman;

(b) such number of other official or non-official members representing such interests as may be prescribed by the State Government.

* * * * *

Composition
of the
District
Forum.

10. (1) Each District Forum shall consist
of—

* * * * *

(b) two other members, who shall be persons of ability, integrity and standing, and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.

* * * * *

(1A) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a selection committee consisting of the following namely:—

* * * * *

(2) Every member of the District Forum shall hold office for a term of five years or up to the age of 65 years, whichever is earlier, and shall not be eligible for re-appointment:

Provided that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by the appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who has resigned.

(3) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the District Forum shall be such as may be prescribed by the State Government.

11. (1) Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed rupees five lakhs.

Manner in which complaint shall be made.

* * * * *

12. A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by—

Jurisdiction of the District Forum.

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the Central or the State Government.

Explanation.—For the purposes of this section, “recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.

Procedure
on receipt
of
complaint.

13. (1) The District Forum shall, on receipt of a complaint, if it relates to any goods,—

(a) refer a copy of the complaint to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

* * * * *

(2) The District Forum shall, if the complaint received by it under section 12 relates to goods in respect of which the procedure specified in sub-section (1) cannot be followed, or if the complaint relates to any services,—

* * * * *

(b) where the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute,—

* * * * *

(ii) on the basis of evidence brought to its notice by the complaint where the opposite party omits or fails to take any action to represent his case within the time given by the Forum.

Finding of
the District
Forum.

14. (1) If, after the proceeding conducted under section 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall

issue an order to the opposite party directing him to do one or more of the following things, namely:—

* * * * *

(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party.

(e) to remove the defects or deficiencies in the services in question.

(2) Every proceeding referred to in subsection (1) shall be conducted by the President of the District Forum and at least one member thereof sitting together:

Provided that where the member, for any reason, is unable to conduct the proceeding till it is completed, the President and the other member shall conduct such proceeding *de novo*.

* * * * *

15. Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed:

Appeal.

Provided that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

16. (1) Each State Commission shall consist of—

Composition of the State Commission.

* * * * *

(b) two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman:

Provided that every appointment under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following namely:—

- (i) President of the state Commission
— Chairman,
- (ii) Secretary of the Law Department of the State
— Member,
- (iii) Secretary, incharge of the Department dealing with consumer affairs in the State
—Member.

(2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of, the members of the State Commission shall be such as may be prescribed by the State Government.

(3) Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 1993, shall continue to hold such office as President or member, as the case may be, till the completion of his term. 50 of 1993

17. Subject to the other provisions of this Act, the State Commission shall have jurisdiction—

Jurisdiction
of the State
Commission.

(a) to entertain—

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees five lakhs but does not exceed rupees twenty lakhs; and

* * * * *

18A. When the office of the President of the District Forum or of the State Commission, as the case may be, is vacant or when any such President is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such person, who is qualified to be appointed as President of the District Forum or, as the case may be, of the State Commission, as the State Government may appoint for the purpose.

Vacancy in
the office
of the
President.

19. Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed:

Appeals.

Provided that the National Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

20. (1) The National Commission shall consist of—

* * * * *

(b) four other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administrations, one of whom shall be a woman:

Provided that every appointment under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following namely:—

(a) a person who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India — Chairman,

(b) the Secretary in the Department of Legal Affairs in the Government of India — Member,

(c) Secretary of the Department dealing with consumer affairs in the Government of India —Member,

(3) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier and shall not be eligible for re-appointment.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 1993, shall continue to hold such office as President or member, as the case may be, till the completion of his term.

21. Subject to the other provisions of this Act, the National Commission shall have jurisdiction—

Jurisdiction
of the
National
Commission.

(a) to entertain—

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees twenty lakhs; and

* * * * *

22. The National Commission shall, in the disposal of any complaints or any proceedings before it, have—

Procedure
applicable
to the
National
Commission.

(a) the powers of a civil court as specified in sub-sections (4), (5) and (6) of section 13;

(b) the power to issue an order to the opposite party directing him to do any one or more of the things referred to in clauses (a) to (i) of sub-section (1) of section 14.

and follow such procedure as may be prescribed by the Central Government.

23. Any person, aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 21, may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order;

Penalties.

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

* * * * *

Enforcement
of orders
by the
Forum, the
State
Commission
of the
National
Commission.

25. Every order made by the District Forum, the State Commission or the National Commission may be enforced by the District Forum, the State Commission or the National Commission, as the case may be, in the same manner as if it were a decree or order made by a court in a suit pending therein and it shall be lawful for the District Forum, the State Commission or the National Commission to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situated, or

(b) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated.

and thereupon, the court to which the orders is so sent, shall execute the order as if it were a decree or order sent to it for execution.

* * * * *

Penalties.

27. Where a trader or a person against whom complaint is made or the complainant fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, trader or person or the complainant shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both:

Provided that the District Forum, the State Commission or the National Commission as the

case may be, may, if it is satisfied that the circumstances of any case so required, impose a sentence of imprisonment or fine, or both, for a term lesser than the minimum term and the amount lesser than the minimum amount, specified in this section.

* * * * *

30. (1) The Central Government may, by notification, make rules for carrying out the provisions contained in clause (a) of sub-section (1) of section 2, clause (b) of sub-section (2) of section 4, sub-section (2) of section 5, clause (iv) of sub-section (4) of section 13, section 19 sub-section (2) of section 20 and section 22 of this Act.

Power to
make rules.

(2) The State Government may, by notification, make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7, sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, sub-section (3) of section 14, section 15 and sub-section (2) of section 16.

31. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of
rules.

(2) Every rule made by a State Government under this shall be laid as soon as may be after it is made, before the State Legislature.

RAJYA SAHBA

A

BILL

further to amend the Consumer Protection
Act, 1986.

*(Shri Shanta Kumar, Minister for Consumer
Affairs, Food and Public Distribution)*

RAJYA SABHA

ERRATA
TO

THE CONSUMER PROTECTION (AMENDMENT) BILL, 2001.
(As introduced in the Rajya Sabha)

1. Page 2, line 10 for "or" read "are"
2. Page 5—
 - (i) line 44, delete the words "in sub-section (1)".
 - (ii) line 18, for "agred" read "agreed".
3. Page 10—
 - (i) line 50, for "Government" read "Department".
 - (ii) Line 50, for "Chairman" read "member".

MINUTES OF THE EIGHTH SITTING OF THE STANDING
COMMITTEE ON FOOD, CIVIL SUPPLIES AND PUBLIC
DISTRIBUTION HELD ON WEDNESDAY,
THE 4TH JULY, 2001

The Committee sat from 11.30 hrs to 13.00 hrs.

PRESENT

Shri Devendra Prasad Yadav — *Chairman*

MEMBERS

Lok Sabha

2. Shri Namdeorao Harbaji Diwathe
3. Shri Abdul Hanid
4. Shri Jai Prakash
5. Shri Brijlal Khabri
6. Shri Shyam Bihari Mishra
7. Shri Mansinh Patel
8. Shri Laxmanrao Patil
9. Shri Abdul Rashid Shaheen
10. Shri Ram Naresh Tripathee
11. Shri Sahib Singh Verma
12. Shri Tejveer Singh
13. Shri Kishan Lal Diler
14. Shri Rama Mohan Gadde

Rajya Sabha

15. Shri W. Angou Singh
16. Shri Lajpat Rai
17. Shri Dawa Lama
18. Shri Vijay Singh Yadav
19. Smt. Binba Raikar
20. Dr. A.K. Patel
21. Shri Ghanshyam Chandra Kharwar

SECRETARIAT

1. Shri Krishan Lal — Director
2. Shri R.S. Mishra — Under Secretary

OFFICIAL WITNESSES

1. Shri S. Bandopadhyaya — Secretary,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer
Affairs).
2. Shri N.K. Chaturvedi — Additional Secretary,
Ministry of Law, Justice &
Company Affairs, (Legislative
Department)

At the outset, the Committee mourned the death of Shri Shyamlal Bansiwala, M.P. and a Member of the Committee and passed an obituary resolution.

2. Thereafter, Hon'ble Chairman welcomed the Secretary of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) and representatives of Ministry of Law, Justice and Company Affairs. The Additional Secretary, Ministry of Law, Justice and Company Affairs informed the Committee regarding the existing provisions and the proposed amendments in the Consumer Protection (Amendment) Bill, 2001 alongwith the reasons. The queries raised by Hon'ble Chairman and the Members on the Bill were also resolved.

3. The verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE NINTH SITTING OF THE STANDING
COMMITTEE ON FOOD, CIVIL SUPPLIES AND PUBLIC
DISTRIBUTION HELD ON MONDAY,
THE 16TH JULY, 2001

The Committee sat from 15.00 hrs to 17.30 hrs.

PRESENT

Shri Devendra Prasad Yadav — *Chairman*

MEMBERS

Lok Sabha

2. Shri A.P. Abdullakutty
3. Prof. S.P. Singh Baghel
4. Shri Namdeorao Harbaji Diwathe
5. Shri Rameshwar Dudi
6. Shri Jai Prakash
7. Smt. Preneet Kaur
8. Shri Brijlal Khabri
9. Shri Ram Naresh Tripathee
10. Shri Sahib Singh Verma
11. Shri Rama Mohan Gadde

Rajya Sabha

12. Shri W. Angou Singh
13. Shri Vijay Singh Yadav
14. Smt. Bimba Raikar
15. Shri Ghanshyam Chandra Kharwar

SECRETARIAT

1. Shri B.R. Kanathia — *Joint Secretary*
2. Shri R.S. Mishra — *Under Secretary*

OFFICIAL WITNESSES

1. Shri S. Bandopadhyaya — Secretary,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer
Affairs).
2. Shri N.K. Chaturvedi — Additional Secretary,
Ministry of Law, Justice &
Company Affairs, (Legislative
Department)

NON-OFFICIAL WITNESSES

1. Smt. Mala Banerjee — Chairperson
Consumer Coordination Council
(CCC)
2. Dr. Sriram Khanna — Managing Trustee
Voluntary Organisation in the
Interest of Consumer Education
(VOICE)
3. Sh. A.C. Nirankari — Convenor
Bihar State Consumer Federation
4. Smt. Pushpa Girimaji — Consumer Columnist
5. Sh. Yegmaraman — Consumer Association of India
(CAI)
6. Shri Bharath Jairaj — Citizen Consumer and Civic
Action Group (CAG)

At the outset, the Chairman welcomed the representatives of Consumer Coordination Council, Voluntary Organization in the Interest of Consumer Education (VOICE), Bihar State Consumer Federation, Consumer Columnist, Consumer Association of India (CAI) and Citizen Consumer and Civic Action Group (CAG). The Committee then heard the view of the representatives on the Bill. Thereafter the representatives replied the queries raised by Hon'ble Chairman and the Members of the Committee.

The Committee then further discussed with the representatives of Ministry of Consumer Affairs, Food and Public Distribution and Ministry of Law, Justice and Company Affairs certain points regarding the Consumer Protection (Amendment) Bill, 2001. The discussion, however, remained inconclusive.

A verbatim record of the proceeding was kept.

The meeting then adjourned.

MINUTES OF THE TENTH SITTING OF THE STANDING
COMMITTEE ON FOOD, CIVIL SUPPLIES AND
PUBLIC DISTRIBUTION HELD ON WEDNESDAY,
THE 8TH AUGUST, 2001

The Committee sat from 15.00 hrs. to 16.45 hrs.

PRESENT

Shri Devendra Prasad Yadav — *Chairman*

MEMBERS

Lok Sabha

2. Shri A.P. Abdullakutty
3. Shri Ranen Barman
4. Smt. Preneet Kaur
5. Shri Sisram Ola
6. Shri Baju Ban Riyan
7. Shri Vishnu Dev Sai
8. Shri Abdul Rashid Shaheen
9. Shri Ram Naresh Tripathee
10. Shri Kishan Lal Diler
11. Shri P.D. Elangovan

Rajya Sabha

12. Shri W. Angou Singh
13. Shri Lajpat Rai
14. Smt. Bimba Raikar
15. Smt. Gurcharan Kaur

SECRETARIAT

1. Shri Harnam Singh — *Joint Secretary*
2. Shri R.S. Mishra — *Under Secretary*

OFFICIAL WITNESSES

1. Shri S. Bandopadhyaya — Secretary,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer
Affairs).
2. Shri N.K. Chaturvedi — Additional Secretary,
Ministry of Law, Justice &
Company Affairs, (Legislative
Department).

Hon'ble Chairman welcomed the Secretary of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) and representatives of Ministry of Law, Justice and Company Affairs. The Additional Secretary, Ministry of Law, Justice and Company Affairs further informed the Committee regarding the existing provisions and desirability of proposed amendments in the Consumer Protection (Amendment) Bill, 2001 to meet the challenges of changing consumer world and hassles being faced by the consumers in getting justice. The queries raised by Hon'ble Chairman and the Members on the Bill were also resolved.

Verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE ELEVENTH SITTING OF THE STANDING
COMMITTEE ON FOOD, CIVIL SUPPLIES AND
PUBLIC DISTRIBUTION HELD ON MONDAY,
THE 17TH SEPTEMBER, 2001

The Committee sat from 15.00 hrs. to 16.45 hrs.

PRESENT

Shri Devendra Prasad Yadav — *Chairman*

MEMBERS

Lok Sabha

2. Shri A.P. Abduliakutty
3. Prof. S.P. Singh Baghel
4. Shri Ranen Barman
5. Shri Namdeorao Harbaji Diwathe
6. Shri Abdul Hamid
7. Shri Jai Prakash
8. Smt. Preneet Kaur
9. Shri Brijlal Khabri
10. Shri Shyam Bihari Mishra
11. Shri Laxmanrao Patil
12. Shri Biju Ban Riyan
13. Shri Abdul Rashid Shaheen
14. Shri Tejveer Singh
15. Shri Kishan Lal Diler
16. Shri Rama Mohan Gadde

Rajya Sabha

17. Shri W. Angou Singh
18. Shri Lajpat Rai
19. Shri Dawa Lama
20. Shri M.A. Kadar

21. Shri Vijay Singh Yadav
22. Smt. Bimba Raikar
23. Dr. A.K. Patel
24. Shri Ghanshyam Chandra Kharwar
25. Smt. Gurcharan Kaur

SECRETARIAT

1. Shri R.S. Mishra — *Under Secretary*

OFFICIAL WITNESSES

1. Shri S. Bandopadhyaya — Secretary,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer
Affairs).
2. Shri N.K. Chaturvedi — Additional Secretary,
Ministry of Law, Justice &
Company Affairs, (Legislative
Department).

Hon'ble Chairman welcomed the Secretary of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) and representatives of Ministry of Law, Justice and Company Affairs. The queries raised by Hon'ble Chairman and the Members on the Bill were resolved by the Secretary, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) and Additional Secretary, Ministry of Law, Justice and Company Affairs (Legislative Department).

3. The verbatim record of the proceedings has been kept.

The Committee then adjourned to meet again on 27.9.2001.

MINUTES OF THE THIRTEENTH SITTING OF THE STANDING
COMMITTEE ON FOOD, CIVIL SUPPLIES AND
PUBLIC DISTRIBUTION HELD ON MONDAY,
THE 22ND OCTOBER, 2001

The Committee sat from 11.00 hrs. to 15.00 hrs.

PRESENT

Shri Devendra Prasad Yadav — *Chairman*

MEMBERS

Lok Sabha

2. Shri A.P. Abdullakutty
3. Prof. S.P. Singh Baghel
4. Shri Ranen Barman
5. Shri Abdul Hamid
6. Shri Jai Prakash
7. Shri Brijlal Khabri
8. Shri Shyam Bihari Mishra
9. Shri Sisram Ola
10. Shri Laxmanrao Patil
11. Shri Bajju Ban Riyan
12. Shri Vishnu Dev Sai
13. Shri Ram Naresh Tripathee
14. Shri Tejbeer Singh
15. Shri Kishan Lal Diler
16. Shri Ramshakal
17. Shri Dalit Ezhilmalai
18. Shri Rameshwar Dudi

Rajya Sabha

19. Shri W. Angou Sing
20. Shri Abdul Gaiyur Qureshi
21. Shri Lajpat Rai
22. Dr. A.K. Patel
23. Shri Ghanshyam Chandra Kharwar
24. Smt. Gurcharan Kaur

SECRETARIAT

1. Shri A.S. Chera — *Deputy Secretary*
2. Shri R.S. Mishra — *Under Secretary*

The Committee considered Draft Twelfth Report of the Standing Committee on Food, Civil Supplies and Public Distribution on 'The Consumer Protection (Amendment) Bill, 2001'. The Committee adopted the Report without any amendment.

The Committee authorized the Chairman to make consequential changes and present/lay the same in both the Houses of Parliament.

The Committee then adjourned.