

In pursuance of the provisions of Clause (3) of Article 348 of the "the Constitution of India", the Governor is pleased to order the publication of the following English translation of notification no. 485/ 11-XIX-2/12 Food/2008, Dehradun, dated November 16, 2011 for general information :

No. 485/11-XIX-2112 Food/2008

Dated Dehradun, November 16, 2011

NOTIFICATION

In **exercise** of the powers under Sub-section (2) of Section 30 of the Consumer Protection Act (Act No. 68 of 1986) and in super session of all existing rules and orders on the subject, the Governor is pleased to make the following Rules, namely-

THE UTTARAKHAND CONSUMER PROTECTION RULE. 2011

- Short title and commencement** 1. (1) These rules may be called the Uttarakhand Consumer Protection Rules, 2011.
- Definitions 2.** (1) In these rules, unless there is anything repugnant in the subjects or context-
- (a) 'Act' means the Consumer Protection Act, 1986 (Act No. 68 of 1986);
 - (b) 'Agent' means a person duly authorised by a party to present any complaint or appeal or reply on its behalf before the State Commission or the District Forum;
 - (c) 'Appellant' means party which makes an appeal against the order of the District Forum;
 - (d) 'Memorandum' means a memorandum of appeal filed by the appellant;
 - (e) 'Opposite Party' means a person who answers complaint or claim;
 - (f) 'President' means the President of the State Commission or the District Forum, as the case may be;
 - (g) 'Respondent' means the person who answers any memorandum of appeal/revision;
 - (h) 'State' means the State of Uttarakhand.
 - (i) 'State Commission' means State Consumer Disputes Redressal Commission established under clause (b) of Section 9 of the Act.
- 16 (2) Words and phrases which have been used in these Rules but have not been defined and which have been defined in the Act, shall have the same respective meaning as given in the Act.
- Salaries and other and condition of the President and the Forum:** 3. (1) (a) The President of the District Forum shall receive the **allowances** salary of the District Judge of a District Court if appointed **terms** on whole time basis or an honorarium of Rs: 400/- (Four hundred only) per day if appointed on part **time** basis.
- (b) [The Member of the District Forum shall receive an **Member of** honorarium of Rs. 10,176/- (Rupees ten thousand one **District** hundred seventy six only) per month .]
- (c) The President of the District Forum shall get House Rent Allowance of Rs. 2,400/- (Rupees two thousand four hundred only) **per** month if appointed on whole time basis

and no Government Accommodation is provided to him.

(d)[The whole time and part time Member of the District

Forum shall get House Rent Allowance of Rs. 1,800/-

(Rupees one thousand eight hundred only) per month if no

Government accommodation is provided to him.]¹

(e)The President of the District Forum shall get Transport Allowance of Rs. 1,830/- (Rupees one thousand eight hundred thirty only) per month if appointed on whole time basis.

(f)[The Member of the District Forum shall get Transport Allowance of Rs. 1,830/- (Rupees one thousand eight hundred thirty only) per month .]¹

(g)The President and the Members of the District Forum, if appointed on full time basis, shall be entitled for such medical facilities as are available to a Grade-I officer of the State Government.

(2) The President and the Members of the District Forum shall be entitled for such travelling allowance and daily allowance on official tour as are admissible to a Grade-I officer of the State Government.

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(3)The salary, honorarium and other allowances shall be defrayed out of the consolidated fund of the State Government.

(4)Before appointment, the President and Members of the District Forum shall have to take an undertaking that he does not and will not have any such financial or other interests as are likely to affect prejudicially his function as a member.

(S) In addition to provision of Section 10(2), the State Government may remove from the office of the President and Member of District Forum who-

(a)has been adjudged an insolvent, or

(b)has been convicted of an offence which in the opinion of the State Government involved moral turpitude, or

(c)has become physically or mentally incapable of acting as such member, or

(d)has acquired such financial or other interest as is likely to affect, prejudicially his function as a member, or

(e)has so abused his position as to render his continuance office prejudicial to public interest, or

(1) does not pass judgment or order possible under the Act, and in conformity with the earlier judgment and the act and does not display absolute integrity, good conduct and dutifulness, or

(g) is guilty of unexplained absence for more than 7 days without permission.

Provided that the President or Member shall not be

removed from his office on the ground specified in Clause (d) and (e) of this sub-rule except on an inquiry held by the State Government in accordance with such procedure as it may specify in this behalf and the Member is found to be guilty of such ground.

(6) The terms and conditions of the service of the President and the Members of the District Forum shall not be varied to their disadvantage during their tenure of office.

(7) Where any vacancy occurs in the office of the President of the District Forum, the senior most (in order of appointment) Member of the District Forum holding office for the time

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being shall discharge the function of the President until a person appointed to fill such vacancy assumes the office of the President of the District Forum.

Provided that where a vacancy occurs in the office of the President of the District Forum and the senior most Member discharges the function of the President then in such a case he shall not have any financial or administrative powers.

(8) The President or any Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organization which have been the subject of any proceeding under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

Place of sitting and other matters headquarter relating to District Forum: Section 14(3)

4. (1) The office of the District Forum shall be located at the other matters headquarter of the District. Where the State Government decides to establish a single District Forum having jurisdiction over more than one district it shall notify the place and jurisdiction of the District Forum so established.

(2) The working days and the office hours of the District forum shall be same as that of the Statement Government.

(3) The official seal and emblem of the District Forum shall be such as the State Government may specify.

(4) Sitting of the District Forum, as and when necessary, shall be convened by the President.

(5) No act or proceeding of the District Forum shall be invalid by reason only of the existence of any vacancy among its Members or any defect in its constitution.

(6) The State Government shall appoint such staff, as may be necessary, to assist the District Forum in its day-to-day work and perform such other functions as are provided under these rules.

The salary payable to such staff shall be defrayed out of the

consolidated fund of the State Government.

(7) Where the opposite party admits the allegations made by the complainant, the District Forum shall decide the complaint on the basis of the merit of the case and the document present before it.

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(8) If during the proceedings conducted under Section 13, District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and the opposite party or its authorised agent to appear before the District Forum on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorised agent fails to appear before the District Forum on such date, the District Forum may in its discretion either dismiss the complaint for default or decide it on merit. Where the opposite party or its authorised agent fails to appear on the date of hearing, the District Forum may decide the complaint ex-parte.

(9) While proceeding under sub-rule (8), the District Forum may, on such terms as it may think fit and at any stage, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party if the complaint does not require analysis or testing of the goods and 150 days if it requires analysis or testing of the goods.

(10) Orders of the District Forum shall be signed and dated by the Members of the District Forum constituting the Bench and shall be communicated to the parties free of cost.

Procedure to be adopted by the District Forum for one sample of the goods in clean containers with stoppers analysis and testing properly fixed on them.

of the goods : (2) On receiving the samples of such goods, the District Section 13(1)(c) Forum shall seal them and fix labels on the containers carrying the following information-

- (a) Name and address of the appropriate laboratory to whom samples will be sent for analysis and test;
 - (b) Name and address of the District Forum;
 - (c) Case number;
 - (d) Seal of the District Forum.
- (3) The sample will be sent to the appropriate laboratory by the District Forum for sending report within 45 days or within such extended time as may be granted by the District Forum, after specifying the nature of the defect alleged and date of submission of report.

Salary and other allowances and terms and condition of the

6. [(a) The President of the State Commission shall receive the salary, allowances and other perquisites of the Judge of the High Court if appointed on whole time basis, or a consolidated honorarium of Rs. 500/- (Rupees Five

P r e s i d e n t a n d Members of the State Commission:

Hundred Only) per day for the sitting if appointed on part time basis. The Member of the State Commission, if appointed on whole time basis, shall receive a

Section 16(2)

consolidated honorarium of Rs. 15,262/- (Rupees fifteen thousand two hundred sixty two only) per month .]1

(b)The President of the State Commission shall be entitled to rent free Government accommodation. If no such accommodation is provided to the President of the State Commission, he shall get house rent allowance as is payable to a Judge of the High Court.

(c)The President of the State Commission shall be entitled for Government vehicle and the diesel/petrol for such vehicle will be the same as is admissible to a Judge of the High Court. He will also be entitled for all those perquisites and allowances which are admissible to a Judge of the High Court.

(d)[The whole time and part time Members of the State Commission shall get transport allowance of Rs. 2,500/- (Rupees two thousand five hundred only) per month,

(e)The whole time and part time Members of the State Commission shall be entitled to rent free Government accommodation. If no such accommodation is provided to the Member of the State Commission, he shall get house rent allowance of Rs. 3,000/- (Rupees Three Thousand Only) per month.]1

(I) The Members of the State Commission, if appointed on full time basis, shall be entitled for such medical facilities as are available to a Grade-I officer of the State Government.

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(2) The President of the State Commission shall be eligible for such traveling allowance and daily allowance on official tour as are admissible to a Judge of the High Court.

(3) The Members of the State Commission shall be eligible for such traveling allowance and daily allowance on official tour as are admissible to Grade-I officer of the State Government.

(4) The salary, honorarium and other allowances shall be defrayed out of the consolidated fund of the State Government.

(5) The President and the Members of the State Commission shall hold the office for a term of 5 years or upto a age of 67 years, whichever is earlier and shall be eligible for renomination.

Provided that the President and Members may —

(a)by writing under his hand and addressed to the State Government, resign his office any time.

(b)be removed from his office in accordance with the provision of sub-rule (6).

(6) The State Government may remove from office, the

President or a Member of the State Commission, who-

- (a) has been adjudged an insolvent; or**
- (b) has been convicted of an offence which in the opinion of the State Government involves moral turpitude; or**
- (c) has become physically or mentally incapable of acting as such Member; or**
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or**
- (e) has so abused his position as to render his continuance in office prejudicial to public interest;**

Provided that the President or a Member shall not be removed from his office on the ground specified in Clauses (d) and (e), of sub-rule (6) except on an enquiry held by the State Government in accordance with such procedure as it may specify in this behalf and find the Member to be guilty on such ground.

(7) Before appointment, the President and the Member of the State Commission shall have to take an undertaking that he does not and will not have any such financial or other interests as are likely to affect prejudicially his functions as such Member.

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(8) The terms and condition of the service of the President and the Members of the State Commission shall not be varied to their disadvantage during their tenure of office.

(9) Every vacancy caused by resignation or removal of the President or any other Member of the State Commission under sub-rule (5) or otherwise shall be filled by fresh appointment.

(10) Where any such vacancy occurs in the office of the President of the State Commission or the President is unable to discharge the function, the senior-most (in order of appointment) Member, holding office for the time being, shall discharge the functions of the President until a person appointed to fill such vacancy assumes the office of the President of the State Commission.

Provided that where a vacancy occurs in the office of the President of the State Commission, and the senior-most Member discharges the functions of the President then in such a case he shall not have any financial or administrative powers.

(11) The President or any Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organization which have been the subject of any proceedings under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

**Place of setting and 7.
other matters
relating to State**

- (1) Office of the State Commission shall be located at the capital of the State.
(2) The working days and the office hours of the State Commission shall be the same as that of the State Government.

Commission:

**Section 14(3) read
with Section 18**

- (3) The official seal and emblem of the State Commission shall be such as the State Government may specify.

(4) Sitting of the State Commission, as and when necessary shall be convened by the President.

(5) No act or proceeding of the State Commission shall be invalid by reason only of the existence of any vacancy among the Members or any defect in its constitution thereof.

(6) The State Government shall appoint such staff, as may be necessary to assist the State Commission in its day-to-day work and perform such other functions as are provided under these rules or assigned to it by the President. The salary payable to such staff shall be defrayed out of the consolidated fund of the State Government.

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(7) Where the opposite party admits the allegations made by the complainant, the State Commission shall decide the complaint on the basis of the merit of the case and documents present before it.

(8) If during the proceedings conducted under Section 13, the State Commission fixes a date for hearing of the parties, it shall be obligatory on the complainant and the opposite party or his authorized agent to appear before the State Commission on such date of hearing or, any other date to which hearing could be adjourned. Where the complainant or his authorized agent fails to appear before the State Commission on such date, the State Commission may in its discretion either dismiss the complaint for default or decide it on merit. Where the opposite party or its authorized agent fails to appear on the date of hearing the State Commission may decide the complaint ex-parte.

(9) While proceeding under sub-rule (8) the State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party where complaint does not require analysis or testing of the goods and within 150 days if it requires analysis or testing of the goods.

(10) Order of the State Commission shall be signed and dated by the Members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

**Procedure for 8. (1)
hearing appeal:
Section 15**

Memorandum shall be presented by the appellant or his authorised agent to the State Commission in person or sent by registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible hand writing, preferably typed, and shall set forth concisely under distinct heads, the grounds of appeal without

any argument or narrative and such grounds shall be numbered consecutively.

(3) Each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

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- (4) When the appeal is presented after the expiry of period of limitation as specified in the Act, memorandum shall be accompanied by the application supported by an affidavit setting forth the fact on which appellant relies to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.
- (5) The appellant shall submit three copies of the memorandum to the State Commission and additional copies for the respondents.
- (6) Every memorandum shall be accompanied by postal stamps as may be required for sending notices to the respondents.
- (7) On the date of hearing and any other date to which hearing may be adjourned it shall be obligatory for the parties or their authorised agents to appear before the State Commission. If appellant or his authorised agent fails to appear on such date, the State Commission may, in its discretion, either dismiss the appeal or decide it on the merit of the case. If respondent or his authorised agent fails to appear on such date, the State Commission shall proceed ex parte and shall decide the appeal ex parte on merits of the case.
- (8) The appellant shall not, except by leave of the State Commission, urge or be heard in support of any ground of objection not set forth in the memorandum, but the State Commission, in deciding the appeal, need not confine to the grounds of objection set forth in the memorandum or taken by leave of the State Commission under this rule.

Provided that the Commission shall not rest its decision on any other grounds unless the party who may be affected thereby, has been given at least one opportunity of being heard by the State Commission.

- (9) The State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of appeal, but not

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- (10) The order of the State Commission on appeal shall be signed and dated by the Members of the State Commission

constituting the Bench and shall be communicated to the parties free of cost.

9. (1) The President of the State Commission may himself

enquire the complaint received against the full time President of the District Forum or may nominate a Member of the State Commission or the Registrar thereof.

(2) Enquires on complaints received against the Members of the District Forum shall be conducted by the President of the State Commission or by a Member of the State Commission or by the Registrar of the State Commission or by the full time President of the District Forum concerned as nominated by the President of the State Commission.

(3) Enquires on complaints received against a Member of the State Commission shall be conducted by a sitting judge of High Court nominated by the State Government in consultation with the Chief Justice of the High Court of the State.

(4) Enquires on complaints received against a part time President of the District Forum, who is a sitting District Judge or an Additional District Judge shall be held by the High Court on the recommendation of the President of the State Commission.

(5) Enquires on complaint received against the President of the State Commission shall be held by a sitting or retired Chief Justice of any High Court in consultation with the Chief Justice of the High Court of the State.

(6) On the basis of enquiries under sub-rule (1), (2), (3) or (4), if the officer is found guilty, then after recommendation of the President of the State Commission, or in the case of the President of the State Commission, after examination and consideration of the enquiry report and recommendations of the enquiry officer, the State Government may issue orders for removing the guilty officer under sub-rule (5) of Rule 3 or sub-rule (6) or Rule 6, as the case may be.

For enquiry under Rule 9 the following procedure shall be followed, namely:-

10. (1) After a complaint is received a copy of the complaint shall be sent to the complainant by registered post or personally and the complainant shall be directed to submit the complaint on an affidavit or provide evidence about the allegations contained in the complaint.

(2) On submission of affidavit or statement to the effect that evidence, if any, shall be furnished by the complainant, then the President or Member against whom allegations have been in the complaint, shall be provided with a copy of the complaint and its

reply/explanation shall have to be furnished by the delinquent within 15 days.

(3) On submission of reply/explanation by the delinquent President or Member within the time allowed, the President of the State Commission shall take appropriate decision as to **whether the inquiry is to be proceeded with or is to be consigned to records. In case the President of the State Commission decides** to initiate enquiry proceedings against delinquent President or the Member of the District Forum or the Member of the State Commission, as the case may be. the suspension of the delinquent Member or the President may be recommended by **the President of the State Commission. The State Government shall thereupon take appropriate action. In the event of suspension of President or Member being proceeded with, as the case may be, only 50 percent of the honorarium/salary shall be payable to him.**

(4) In the event of deciding to hold the enquiry, the **President of the State Commission may enquire the matter himself or may nominate a Member of the State Commission or the Registrar thereof.**

(5) In the event of the President or the enquiry officer, as the case may be, deciding to proceed against the delinquent officer, charges shall be framed accordingly to be approved and signed by the President of the State Commission.

(6) The charge sheet along with the copies of the documentary evidence and list of the witnesses as well as their statements, if any, shall be sent to the delinquent President or Member by registered post on the address available in the office record or be served personally. If the charge sheet cannot be served in the said method, then the charge sheet shall be published in a local newspaper. On the publication **in the newspaper, service shall be deemed sufficient and further action shall be taken after two weeks of such publication.**

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(7)Written reply, if any, from the delinquent President or Member, as the case may be, shall be submitted within fifteen days from the receipt of charges. It will be enquired whether he desires to cross-examine any witness and what evidence he contemplates to file in defence. It will also be indicated to him that in the event the required information is not submitted within the stipulated period, it will be presumed that he does not have any material to provide and accordingly the enquiry will proceed ex parte.

(8) Where the delinquent President or Member, as the case may be appears and accepts the allegations made, the President of the State Commission or the Enquiry Officer will submit report on the basis of allegations made.

(9) Where the delinquent President or Member, as the case may be, denies the allegations and the charges framed against him, the President of the State Commission or the Enquiry Officer will proceed to record the statement of

proposed witnesses in the presence of the delinquent President or Member. Opportunity will be provided to cross-examine the witnesses and the full record of the proceedings shall be maintained.

(10) In those proceedings the delinquent officer may be asked or may be called upon to produce any document in order to find out the true facts or to prove the allegations.

(11) On completion of the entire enquiry proceedings, if the enquiry conducted by any officer other than the President of the State Commission, the report of enquiry shall be submitted before the President of the State Commission. The Enquiry Officer shall not make any recommendation/comments about the action which may be taken.

(12) On completion of the enquiry proceedings, the decision whether the allegations have been proved or not proved will be taken by the President of the State Commission. In the event of the allegations being not proved, the President of the State Commission may inform the delinquent officer and the Government that the allegations have not been proved. The delinquent officer will be reinstated by the Government if he was under suspension and would be paid full salary/honorarium for the period of suspension.

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(13) In the event of the President of the State Commission, deciding that the allegations have been proved, the delinquent officer shall be at liberty to submit a representation within 15 days of the information.

(14) The President of the State Commission shall communicate his decision within 30 days if not extended for another period of 30 days for reasons to be recorded in writing, keeping in view the representation and other related documents, if any.

(15) If the President of the State Commission finds that the allegations against the delinquent officer have been proved, the President shall recommend within two weeks to State Government to remove or dismiss the delinquent officer. The State Government shall, after receiving the recommendations of the President of the State Commission, issue appropriate order accordingly within one month of the receipt thereof.

By Order,

SUBARDHAN,

Additional Secretary (IC).

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