

**A**  
**BILL**

to provide for promotion and protection of the interest of consumers.

**Preamble:** - Whereas it is expedient to provide legal protection to the consumer, the promotion of fair commercial practices, speedy redressal of consumer complaints, and matters arising out of or connected therewith:

It is hereby enacted as follows: -

**PART-I**  
**PRELIMINARY**

1. **Short title, extent, commencement and application:** -
  - (1) This Act may be called the Punjab Consumer Protection Act, 2004.
  - (2) It extends to the whole of the Province of the Punjab.
  - (3) It shall come into force at once.
  - (4) Save as otherwise expressly exempted by Government through notification in the official, this Act shall apply to all goods and services.
2. **Definitions.** -In this Act, unless there is anything repugnant in the subject or context: -
  - a) **“Complainant”** means. -
    - i) a consumer;
    - ii) a voluntary consumer association subject to such restrictions as may be prescribed; and
    - iii) Government, concerned Council, a local government and any person or agency authorized by the aforesaid on their behalf to lodge complaint before the Authority.
    - iv) One or more consumers on behalf of numerous consumers who are having the same interest (Class action complaints)
  - b) **“Consumer”** -For the purpose of "**goods**", a consumer means a person belonging to the following categories:
    - i) buys goods for a consideration which has been paid or promised or partly paid and partly promised to be paid or under any system of deferred payment including hire purchase but does not include a person who obtains such goods for re-sale or for any commercial purpose; or
    - ii) have any goods or services for a consideration which has been paid or promised or partly paid and partly promised to be paid or under any system of deferred payment including hire purchase and leasing.
    - iii) It includes any user of such goods other than the person who actually buys goods and such use is made with the approval of the purchaser.

**Explanation:** - A person is not a consumer if he purchases goods for commercial or resale purposes However, the word "commercial" does not include use by consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self employment.

**“Consumer”** - For the purpose of "**services**", means a person belonging to the following categories:

- i) One who hires or avails of any service or services for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment;
  - ii) It includes any beneficiary of such service other than the one who actually hires or avails of the service for consideration and such services are availed with the approval of such person.
- c) **"Claim"** means a claim lodged with a tribunal under section 21.

- d) **"Claimant"** means a person who lodges a claim with a tribunal and includes any person who becomes a party to the proceedings on any claim in the capacity of a claimant.
- e) **"Court"** means any court of competent jurisdiction in Pakistan;
- f) **"Party"** means a claimant or respondent and any person joined as a third party;
- g) **"Registrar"** means the Registrar of Consumer Tribunals appointed under section 20 and includes the Deputy Registrar and an Assistant Registrar;
- h) **"Registry"** means the Registry of Consumer Tribunals established under section 19.
- i) **"Respondent"** means any person against whom a claim is made and any person who becomes a party to the proceedings on any claim in the capacity of a respondent;
- j) **"Mediators"** means persons included in the panel of mediators maintained by the Government.
- k) **"Tribunal"** means the Consumer Tribunal established by this Act under section 14 by the Government by notification in the official Gazette empowered to try cases under this Act.
- l) **"Council"** means a Consumer Protection Council, established under section 8;
- m) **"Defect"** means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods.
- n) **"Deficiency"** means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.
- o) **"Goods"** means every kind of movable property other than actionable claims and money, and includes stock and shares, growing crops, grass, and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale.
- p) **"Trader"** means : -
  - (i) someone who purchases and maintains an inventory of goods to be sold.
  - (ii) a person who introduces anything in the stream of commerce.
  - (iii) an enterprise that operates a for-profit business arranging for the purchase and/or sale of goods/services.
  - (iv) a person who conducts a business which involves trading with members of the public.
  - (v) a merchant involved in cash commodities.
  - (vi) a professional speculator who trades for his own account.
  - (vii) a man or woman who sells wares such as cloth, leather or less expensive jewels.
  - (viii) a speculative investor or professional who makes frequent purchases and sales
  - (ix) individuals who buy and sell for their own accounts for short-term profit. also, an employee of a broker/dealer or financial institution who specializes in handling purchases and sales of securities for the firm and/or its clients.
  - (x) a professional stock trader of a brokerage firm or any other investor who frequently buys and sells securities in the hope of gaining from short-term price changes rather than long-term capital appreciation.
  - (xi) an individual who buys and sells securities for his own account for personal gain or an individual who buys and sells securities on behalf of a broker or financial institution for the firm and its clients. Also includes employee of an investment dealer who executes buy and sell orders for the

dealer and its clients either on a stock exchange or the over-the-counter market.

- (xii) a client who buys and sells frequently with the objective of short-term profit.
  - (xiii) a merchant involved in the merchandising of a cash commodity or a speculator that trades for his/her own account.
  - (xiv) a person or organization that earns money by buying goods, commodities, securities, etc. and selling them at a profit.
  - (xv) a person whose intention is to profit from buying and selling, rather than the holding of securities.
- q) **“Government”** means the Government of the Punjab.
- r) **“Laboratory”** means a laboratory or organization recognized by Government including the Federal Government and includes any such laboratory or organization established by or under any law for the time being in force, which is maintained, financed or aided by Government including Federal Government for carrying out analysis or test of any goods with a view to determine whether such goods suffer from any defect;
- s) **“Manufacturer”** includes 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.-** A branch office of a manufacturer shall not be deemed to be a different manufacturer even though an assembly operation, formulation, distribution and sale of goods is carried out at such branch office;
- t) **“Prescribed”** means prescribed by rules made under this Act;
- u) **“Province”** means the Province of the Punjab,
- v) **“Rules”** means rules made under section 55.
- w) **“Service”** include services of any description which are made available to potential users and includes the provision of facilities in connection with consumer credit services provided by financial institutions, auto loans/leases, house loans, house hold equipment loans, travel business, architectural, engineering, building, woodwork, electrician, plumbing contracts, insurance, transport body building, manufacturing, processing, automobiles, health services, accountancy, supply of electrical, mechanical or any other form of energy including gas and petrol, water telephone, boarding or lodging, entertainment, medicine, education, construction work, auto repairs, amusement, catering, security, or purveying news or other information and any other services, but does not include the rendering of any service free or charge or under the contract of personal services; and
- x) **“Unfair”** trade practice means a trade which is person for the purpose of sale, user or supply of any goods or provision of any service or for their promotion, adopts one or more of the following practices, causes loss or injury through hoarding, black-marketing, adulteration, selling of expired drugs, food items and commodities unfit for human consumption, or charging for the goods and services in excess of the price fixed by an authority authorized to do so under any law for the time being in force or in furtherance of such sale, use or supply, makes any statement orally or in writing or by chalking on walls or through sign-boards or neon-signs or by distributing pamphlets or by publication in any manner, including electronic media, by.-
- (i) falsely representing that the goods or , as the case may be, services are of a particular standard, quality, quantity, grade, composition, model style or mode;

- (ii) falsely representing any rebuilt, second hand, renovated, reconditioned or old goods as new goods;
  - (iii) falsely representing the goods or, as the case may be, services have sponsorship, or approval of the competent agency or authority or possesses specified characteristics, performance, accessories, use, or benefits which such goods or services do not have;
  - (iv) falsely representing that the goods or services offered fulfil the prescribed standard fixed by local or international authorities;
  - (v) giving misleading representation of the need for, or the usefulness of any goods or services;
  - (vi) falsely giving to the public any warranty or guarantees of the performance, specification, required ingredients, efficacy or length of life of a product or any goods that is not based on any adequate or proper test thereof;
  - (vii) falsely offering for sale or on lease any plot/premises, house, apartment, shop or building with specified facilities or with the promise to deliver possession thereof within a specified period or without any escalation in price or by falsely representing that such premises, house, apartment shop or building is being sold, built or constructed in accordance with the approved plan, specification and approval of the concerned authorities;
  - (viii) misleading the public concerning the price at which a product or products or goods or services have been or are ordinarily sold or provided;
  - (ix) giving false or misleading facts regarding facilities available in the private educational institutions or falsely representing that such institutions have proper approval of the concerned authorities or affiliated with foreign organization;
  - (x) falsely representing for provision of services by professionals and experts, including medical practitioners, engineers, architects, teachers, and hakeems;
  - (xi) giving false or misleading facts disparaging the goods, services or trade or another person, firm, company or business concern;
  - (xii) advertising for the sale or supply, at a bargain price, of goods or services which are not intended to be offered for sale or supply at such price;
  - (xiii) offering of gifts, prizes or other items with the intention of not providing them as offered or creating the impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction; and
  - (xiv) falsely giving description of commodities and services offered through mail order;
- (y) **"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.

**3. Act not to supersede other laws. –**

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

**4. Obligations of manufacturers and traders –**

(1) Every manufacturer shall publish or mark on every packet or container the maximum retail price, the nature, standard or type and other specifications of the goods therein, the weight, size or volume and date of manufacture and expiry where appropriate, as the case may be, having regard to the commercial practice in relation to those goods, the name and address of the manufacturer or in the case of a packer or importer, the trader thereof; Provided that if any goods are not sold in packed form or in container, it shall be sufficient for the purposes of this subsection; if the required information is exhibited conspicuously in the shop where the sale is being made;

Provided further that if the price or catalogue or vendor instructions for the consumer is issued in relation to any goods, it shall be sufficient for the purposes of this subsection, if the required information is published or marked on such catalogue or vendor instructions;

(2) Every repair workshop must give a written price estimate for the repairs and get an authorisation from the consumer before the work is performed, which includes, among other things: the odometer reading; a description of the problem or the specific repair requested; choice of alternatives for the customers; the estimated cost; labour and parts necessary for the specific diagnosis /repair requested. Once an estimate is given and approved the facility may not charge the consumer more than 10% above the estimated costs without prior approval.

2) Any trader who sells any goods not marked with information required under subsection (1) shall incur the liabilities of the disregard of sub-section (1), unless he proves that the manufacturer of the goods or some other person identified by him is responsible for the offence and the onus of proof shall lie on such trader.

5. **Prices to be prominently displayed at business place. –**

In the absence of a price catalogue meant for the consumers, every trader shall exhibit conspicuously in his shop or display enter a notice specifying the retail or wholesale price, as the case may be, of all goods available for sale in that shop or display centre.

Provided further that the trader shall also display the return policy, warranties, disclose any deficiency or defect in any goods and repair policy.

Provided the repair facility must display conspicuously in its' workshop the consumer rights sign.

6. **Receipt to be issued to the purchaser. –**

Every trader who sells any goods shall issue to the purchaser who may be a consumer or otherwise a receipt setting out. -

- a) the date of sale;
- b) the specification and other identifying particulars of the goods sold;
- c) The quantity and price of the goods;
- d) The nature of sale, that is to say, whether wholesale or retail, and
- e) The name and address of the seller;

Provided that if a trader uses an electronic machine for preparation of receipt in respect of the sale made, such receipt shall be taken as sufficient compliance with the requirements of this section.

7. **Prohibition of false advertisement, etc. –**

(1) Notwithstanding anything contained in any other law for the time being in force, no company, firm or person shall advertise in any manner not authorized by law for the sale or hiring of goods or services or any property, movable or immovable, or solicit deposits for repayment at higher rates of profit or interest and thereby cause loss, financial or otherwise, to any consumer;

(2) Notwithstanding any punishment provided for making misrepresentation, false or misleading advertisement in any other law for the time being in force, the company, firm or a person or undertaking making such advertisement shall be liable to pay such compensation as the Authority may direct for causing loss to the person affected by such advertisement.

## PART II COUNCILS

8. **The Councils. –**

(1) As soon as may be, after the commencement of this Act, Government may, by notification in the official Gazette, establish Consumers Protection Council on the Provincial level and District, as it may deem necessary.

(2) The Council shall consist of a Chairman and such other official and non-official members as Government may, by notification in the official Gazette, specify. The members will include representatives from Bar Councils, Chamber of Commerce,

Voluntary Women Organisations, Consumer and Civil Society Organisations as non-official members..

- (3) The existence of vacancy in, or defect in the constitution of the Council shall not invalidate any act or proceedings of the Council.
- (4) The Council shall observe such procedure for conducting its business as may be prescribed.

9. **Meeting of the Council.** –

- (1) The Council shall meet as and when necessary and at such time and place as the Chairman may determine, provided that not more than a period of two months shall intervene between the two meetings of the Council.
- (2) In the absence of the Chairman, the Council shall elect one of its members to act as Chairman.
- (3) The quorum of the meeting of the Council shall be half of the total members.

10. **Objects and functions of the Council.** –

- (1) The objects and functions of the Council shall be to determine, promote and protect the rights of consumers, including. -
  - (a) the right of protection against marketing of goods which are hazardous to life and property.
  - (b) The right of information about the quality, quantity, potency, purity. standard and price of goods and services.
  - (c) The right of access to a variety of goods of competitive prices.
  - (d) The right for redressal against unfair trade practices of unscrupulous exploitation of consumers.
  - (e) The right of consumer education; and
  - (f) The right of easy availability of essential services and commodities.
- (2) The Council shall be responsible for formulation of policies for the promotion and protection of the rights of consumers, fair and honest trade practices by the manufacturers, producers and suppliers of goods and services in relation to the interest of consumers and their effective implementation.
- (3) To establish or certify one or more Laboratories for conducting analysis and comparative testing.
- (4) To set up one or more research institutes to conduct research on and investigation of consumer related issues.
- (5) To assist and facilitate consumer groups and organizations in their work.
- (6) To organize training courses on consumer protection and related concerns for Administrative officers of consumer tribunals, other concerned government officials and members of civil society organizations.
- (7) For promotion and protection of interests of consumers, the Council shall coordinate between Government, manufacturers, producers, suppliers, and consumers.
- (8) All persons, bodies or organizations, both official and non-official shall extend help to the Council in advancement of its objects and functions.

11. **Delegation of powers:**

- (1) Government may, by notification in the official Gazette, direct that all or any of the powers and functions conferred on the Council shall, subject to the such limitations, restrictions or conditions, as it may from time to time impose, be exercised and performed by such member or members of the Council or by such officer or officers of Government as may be specified.
- (2) Government may appoint such officers, as it may deem necessary to assist the Council in the performance of its duties and functions.

12. **Rules:**

The provincial Consumer Protection Council shall issue Rules to facilitate the working and operation, and to provide and regulate the procedure of the provincial and other Consumer Protection Councils established hereunder.

13. **The Consumer Welfare Fund:**

- (a) Provincial and district government will set up a Consumer Welfare Fund with an appropriate grant. It will be administered by the respective Consumer Protection Council and further strengthened by private donations, grants from international donors and Penalties awarded by Tribunals. The Fund will be used to facilitate the functioning of the Councils to achieve their objectives.
- (b) Penalties awarded by the Tribunal shall be deposited by the Tribunal in the Consumer Welfare Fund of the District where the cause of action is tried and a notification of the penalty amount thereof shall be provided to the related provincial and federal Consumer Protection Councils.

### **PART- III**

#### **ESTABLISHMENT AND JURISDICTION OF CONSUMER TRIBUNALS**

**14. Establishment of Consumer Tribunals-**

Government may, by notification in the official Gazette, establish one or more Consumer Tribunals in each District, Town or Tehsil of the Province to exercise the jurisdiction in respect of complaints filed under this Act.

**15. Appointment and Qualification of the Presiding Officer of Tribunals-**

(1) A tribunal shall be presided over by a person who has been or is qualified to be a District Judge or has ten years active practice as an Advocate, appointed by the Government on the recommendation of the Chief Justice of the Lahore High Court.

(2) The presiding officer of the tribunal shall be appointed by the Government on such terms and conditions as it may determine.

(3) The presiding officer of the tribunal may resign his office by writing under his hand addressed to the Governor.

(4) The presiding officer of the tribunal shall not hold any other office of profit in the service of Federal or Provincial Government

(5) Every person appointed to be a the presiding officer of the tribunal shall hold office for such term as may be specified in the instrument of his appointment, and may from time to time be reappointed.

(6) Any appointment of a presiding officer of the tribunal made under subsection (1) may at any time be revoked by Government on the recommendation of the Chief Justice.

#### **DISPOSAL OF COMPLAINTS**

**16. Jurisdiction of the Tribunal. -**

(1) Subject to the other provisions of this Act, the Tribunal shall have jurisdiction to entertain complaints within the local 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 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 carried on business, or personally works for gain, provided that in such case either the permission of the Tribunal is given, or the opposite parties who do not reside, or carry on business, or personally work for gain, as the case may be, acquiesce in such institution, and

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

**17. Exclusion of other jurisdictions**

(1) Where a complaint has been lodged with a tribunal, no proceedings relating to that complaint shall be brought before any other court except —

(a) where the proceedings before that court were commenced before the complaint was lodged with the tribunal; or

(b) where the complaint before the tribunal has been withdrawn or abandoned.

(2) No claim shall be brought before a tribunal if proceedings relating to that complaint are pending in or have been heard and determined by any other court.

(3) For the purposes of this section, a complaint shall be deemed to have been lodged with a tribunal when section 21 has been complied with.

**18. Functions of tribunal**

(1) The primary function of a tribunal is to attempt to bring the parties to a dispute to an agreed settlement.

(2) Where an agreed settlement is reached, a tribunal may make one or more of the orders, which it is empowered to make under section 41.

(3) If it appears to a tribunal that it is impossible to reach a settlement under subsection (1) within a reasonable time, the tribunal shall proceed to determine the dispute.

(4) A tribunal shall determine the dispute according to the substantial merits and justice of the case, and in doing so shall have regard to the law but shall not be bound to give effect to strict legal technicalities.

**19. Registry**

(1) There shall be established and maintained a Registry of Tribunals in which all records of the tribunals shall be kept.

(2) The record of a tribunal shall consist of —

(a) complaints lodged with the tribunal by claimants;

(b) summaries of the facts of the issues in dispute in respect of those complaints as determined and recorded by the tribunal during the hearing of the complaints; and

(d) orders made by the tribunal in relation to those complaints.

(3) There shall be no court fee for filing of the complaint before the Tribunal.

(4) Any party to the complaint shall, upon payment of a prescribed fee, be entitled to a copy of the record of a tribunal and such record shall be admissible in evidence before any other court for the purposes of any proceedings before that court.

(5) The record of a tribunal relating to any complaint shall be kept for a period of one year after the date of the order made by the tribunal in relation to the claim or, where there is an appeal against the order to the High Court, one year after the conclusion of the appeal.

**20. Appointment of Registrar, Deputy Registrar, Assistant Registrars and other officers**

(1) The Government may appoint a Registrar, a Deputy Registrar, Assistant Registrars and such other officers as may be necessary for the proper functioning of tribunals with the consultation of the Chief Justice.

(2) No person shall be appointed as Registrar, a Deputy Registrar or Assistant Registrars unless he has a law degree issued by a recognised university and has been trained to assist the parties to settling disputes through conciliation/consultation.

(3) All the powers and duties conferred and imposed on the Registrar may be exercised and performed by the Deputy Registrar or an Assistant Registrar.

**21. Lodging claims**

(1) Proceedings before a tribunal shall be commenced by lodging a complaint with the Registrar.

(2) A complaint shall be in writing in the prescribed form and shall be signed by the consumer.

(3) In any joint or representative complaint —

(a) the Registrar may permit the complaint to be filed notwithstanding that it has not been signed by all the consumers or persons represented on condition that all the consumers or such persons shall do so before the date of hearing; and

(b) the name of a consumer or person represented who has not so signed the complaint before the hearing may, if a tribunal so directs, be deleted from the complaint and the amount of the claim reduced accordingly.

(4) The Registrar may, in accordance with the rules, permit a complaint to be lodged by electronic facsimile or any other prescribed electronic means.

**22. What constitutes a complaint?**

Under the Act, a complaint means any allegation in writing made by a complainant in regard to one or more of the following:-



-Any unfair trade practice as defined in the Act or restrictive trade practices like tie-up sales adopted by any trader.

-One or more defects in goods. The goods hazardous to life and safety, when used, are being offered for sale to public in contravention of provisions of any law for the time being in force.

- Deficiencies in services.

- A trader charging excess of price.

(i) Fixed by or under any law for the time being in force; or

(ii) displayed on goods; or

(iii) Displayed on any packet containing such good;

### **Contents of claim**

A complaint shall contain —

(a) the name and address of each complainant and, in the case of a representative complaint, the name and address of each person represented;

(c) the name and address of each respondent;

(e) the sum of money claimed by each complainant or person represented; and

(e) such other particulars of the complaint as are reasonably sufficient to inform the respondent of the ground for the complaint and the manner in which the amount claimed by each complainant or person represented has been calculated.

### **23. Manner in which complaint shall be made. –**

(1) A complaint, in relation to any goods sold or delivered or any service provided, may be filed with the Tribunal by. -

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

(b) the concerned Council;

(c) any recognized consumers association notwithstanding that the consumer to whom the goods are sold or delivered, or service is provided, is a member of such association; or

(d) an officer of Government authorized in this behalf.

(e) One or more consumers on behalf of numerous consumers who are having the same interest (Class action complaints)

**Explanation.** - For the purpose of this section, ‘recognized consumer association’ means any voluntary consumer association registered under the Companies Ordinance, 1984 (XLVII of 1984) or the Societies Registration Act, 1860 (XXI of 1860) or the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961 (XLVI of 1961) or any other law for the time being in force or Consumer Cooperative Societies registered under the cooperative Societies Act, 1925 or such other association as may be prescribed.

(2) A complaint under this section shall be submitted within ten days of the sale, delivery or rendering of the service;

Provided that the Court having jurisdiction to hear the complaint may allow a complaint, to be filed after ten days and within such time as it may allow if it is satisfied that there was sufficient cause for not filing the complaint within the specified period;

Provided further that such extension shall not be allowed beyond a period of sixty days from the expiry of the warranty or guarantee period specified by the manufacturer of the goods or provider of the service and if no period is specified, one year of the date of purchase of the goods or providing of services.

### **24. Powers of Registrar**

(1) The Registrar shall, when a complaint has been filed, invite all the parties to the dispute for consultation with a view to effecting a settlement acceptable to all the parties.

- (2) If the Registrar is unable to effect a settlement under clause 1, he shall also persuade the parties to adopt with the consent of parties community service in which disputes are settled by way of mediation rather than court action. For this purpose panel of mediators, who are volunteers with a heart to serve the community shall be maintained in consultation of Chief Justice Of Lahore High Court. The panel shall consist of doctors, lawyers, accountants, architects, engineers, lecturers, management consultants, businessmen and others, all of whom are knowledgeable in their respective areas of practice. The trained mediator will be assigned to assist the parties to come to a compromise over their dispute. If both the parties arrive at a mutually acceptable solution with the help of the mediator the terms of the settlement shall will be reduced to writing and sent to the Registrar for making an order. During the mediation session the mediator will attempt to facilitate an amicable settlement with the interests of the parties in mind to achieve a win-win solution. The parties will not be forced to settle. If they cannot settle at the mediation session, the parties will be free to explore other ways of settling the matter including commencing tribunal action. All matters disclosed during the mediation will be confidential and, to facilitate settlement, parties will agree not to use information gained in the course of the mediation in subsequent litigation (if any).
- (3) Where such a settlement acceptable to all the parties is reached under either clause 1 or 2, the Registrar shall, at the request of the complainant, make an order under section 41 that gives effect to the terms of the settlement and the order shall have effect as if it were an order of a tribunal made under that section.
- (4) Where at the consultation the Registrar is of the opinion that a complaint or counterclaim lodged is outside the jurisdiction of a tribunal, he shall discontinue the proceedings and advise the complainant and respondent accordingly.
- (5) Any person aggrieved by a decision of the Registrar made under subsection (3) may within one month appeal to a tribunal which may make an order confirming, reversing or varying the decision of the Registrar.
- (6) If a complainant fails to appear at the consultation, by himself or by a representative pursuant to section 29(2), the Registrar may make an order dismissing the complaint or, where there is a counterclaim by the respondent, make any order, which a tribunal may make under section 41.
- (7) If a respondent fails to appear at the consultation, by himself or by a representative pursuant to section 29(2), the complainant may apply to the Registrar for any order, which a tribunal may make under section 41 to be made against the respondent.
- (8) Upon an application under subsection (6), the Registrar shall grant the complainant the order if the Registrar is satisfied that the complainant is entitled thereto and that a copy of the written claim and notice of consultation have been served on the respondent.
- (9) Any order made by the Registrar under subsection (5) or (7) shall have effect as if it were an order of a tribunal made under section 41.
- (10) Any person aggrieved by an order of the Registrar made under subsection (5), (6) or (7) may apply to the Registrar for the order to be set aside.
- (11) An application made under subsection (9) shall be made within one month after the consultation or such further period as the Registrar may allow.

**25. Consultation before Registrar by electronic means**

- (1) The Registrar may, on such conditions as he may impose, permit the consultation to be conducted by telephone, videophone or any other electronic means (referred to in this section as electronic means).
- (2) The Registrar may at any time direct any consultation by electronic means to cease and order the parties to appear in person at a designated place for the consultation.
- (3) Any order made by the Registrar at the consultation by electronic means may be set aside on the application of any person aggrieved by that order if the Registrar is satisfied that either party has been impersonated or that any person who participated in the consultation did not have authority to represent the party concerned.

(5) An application made under subsection (3) shall be made within one month after the order was made or such further period as the Registrar may allow.

**26. Service of claim and notice of hearing**

(1) Where the Registrar is unable to achieve a settlement acceptable to all the parties to the dispute, he shall —

(a) fix a place and date for hearing the complaint and give notice thereof in the prescribed form to the consumer; and

(b) as soon as is reasonably practicable, cause a copy of the written complaint and a notice in the prescribed form of the place and date of hearing to be served on --

(i) the respondent; and

(ii) every person who appears from the complaint form to have a sufficient interest in the settlement of the dispute to which the complaint relates.

(c) The Registrar may summon any person to appear before a tribunal if, in his opinion, the presence of the person is necessary to enable the tribunal to determine the questions in dispute in the complaint.

(d) Service of a copy of the written complaint and the notice of hearing and of a summons or any document that is to be served on any person in any proceedings before a tribunal may be effected by such person as may be appointed by the Registrar for the purpose.

(e) The Registrar shall refer a copy of the complaint referred 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;

(f) Where the opposite party on receipt of complaint referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to present his case within the time specified, as the case may be, the Tribunal shall proceed to settle the consumer dispute in the manner specified hereafter;

(g) Where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the Tribunal shall obtain sample of the goods from complainant, seal it and authenticate it in the manner prescribed and refer the sample so sealed to a laboratory alongwith a direction to make an analysis or test, whichever may be necessary, with a view to finding out if such goods suffer from any defect and to report its findings thereon to the Tribunal within a period of thirty days of the receipt of the reference or within such period as may be extended by the Tribunal;

(h) Before sample of the goods is referred to any laboratory under clause (c), the Tribunal may require the complainant to deposit to the credit of Tribunal such fees as may be specified, for payment to the laboratory for carrying out the necessary analysis or test in relation the goods in question. The fee so deposited by the complainant shall be recovered from the opposite party, if the test or analysis support the version of complainant, and paid to the complainant;

(i) On receipt of the report from the laboratory, the Tribunal shall forward a copy of the report, alongwith such remarks as may be deemed appropriate, to the opposite party and the whole process shall be completed within two months;

(j) The Tribunal shall give a reasonable opportunity to both the parties of being heard with regard to the correctness or otherwise of the report before making an order under section 41.

(2) The Tribunal shall, if the complaint received related to goods in respect of which the procedure specified in subsection (1) cannot be followed, or if the complaint relates to any service;

(a) refer a copy of such complaint to the opposite party 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 Tribunal ; and

(b) on receipt of the defence of the opposite party, if any, under clause (b), proceed to settle the dispute on the basis of evidence produced by both the parties;

Provided that if the opposite party does not deny or dispute the allegations made in the complaint or fails to present his case within the specified period, the dispute shall be settled on the basis of the evidence brought by the complainant.

(3) For the purpose of this section, the Tribunal shall have the same powers as are vested in civil court under the Code of Civil Procedure, 1908 (V of 1908), while trying a suit, in respect of the following matters, namely;

- (i) the summoning and enforcing attendance of any defendant or witness and examining him on oath;
- (ii) the discovery and production of any document or other material object producible as evidence;
- (iii) the receiving of evidence on affidavits.
- (iv) Requisitioning of the report of the concerned analysis or test from the laboratory or from any other relevant source;
- (v) Issuing of any commission for the examination of any witness; and
- (vi) Any other matter which may be prescribed;

(4) Every proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code Section 195, and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898). Presence of complainant before the competent Tribunal shall not be required till the accused/respondent has put up appearance before the Tribunal.

#### **27. Parties**

(1) Subject to subsection (2), the claimant and the respondent and every person to whom notice of a claim has been given under section 26 shall be parties to the proceedings on that claim.

(2) A tribunal may, at any time, order that the name of a person who appears to it to have been improperly joined as a party be struck out from the proceedings.

#### **28. Hearing to be informal**

(1) Proceedings before a tribunal shall be conducted in an informal manner.

(2) A tribunal may, of its own motion or at the request of any party, summon any witness and require the production of any document, record, book of account or other thing, which is relevant in any proceedings.

(3) A tribunal shall inquire into any matter, which it may consider relevant to a claim, whether or not it has been raised by a party.

#### **29. Right of audience**

(1) Subject to this section, a party to proceedings before a tribunal shall present his own case.

(2) Subject to subsection (3), where a party to proceedings before a tribunal is —

(a) the Government, a public officer may present the case on its behalf;

(b) a District, Town or Tehsil Council, one of the full-time employees of the District, Town or Tehsil Council or of its management agent may present the case on its behalf;

(c) a body corporate, one of its full-time employees may present the case on its behalf;

(d) a partnership, one of its partners or full-time employees may present the case on its behalf;

(e) a management corporation, a member of its council or a full-time employee of its managing agent may present the case on its behalf;

(f) the Chamber of Commerce, one of the elected representative of the Chamber or any employee of the Chamber duly authorised by the Chamber may present the case on the Chamber's behalf;

(g) a minor and is, in the opinion of the Registrar or tribunal, unable to present his own case, his parent or guardian or any other person as may be approved by the Registrar or tribunal may present the case on his behalf;

(h) a person who is not resident in Pakistan and who is unable to remain in Pakistan until the hearing of the case, any other person who is duly authorised by him in writing may, with the approval of the Registrar or tribunal, present the case on his behalf; and

(i) a person who is, in the opinion of the Registrar or tribunal, unable to present his own case by reason of old age, illiteracy or infirmity of mind or body, any other person who is duly authorised by him in writing or who is approved by the Registrar or tribunal may present the case on his behalf.

(3) No party to any proceedings before a tribunal shall be represented by an advocate, except as provided by subsection (2), an agent, whether paid or otherwise.

(4) A tribunal shall, before permitting a person to act as a representative under subsection (2), satisfy itself that the person has sufficient knowledge of the case and sufficient authority to bind the party whom he represents.

#### **30. Proceedings to be in private**

All proceedings before a tribunal shall be held in private.

**31. Proceedings before tribunal conducted by electronic means, etc.**

(1) A tribunal may, on such conditions as it may impose, permit proceedings before the tribunal to be conducted by telephone, videophone or any other electronic means (referred to in this section as electronic means).

(2) The tribunal may at any time direct any proceedings before it conducted by electronic means to cease and order the parties to appear in person at a designated place for the hearing.

(3) Any order made by the tribunal at the proceedings before it by electronic means may be set aside on the application of a person aggrieved by that order if the tribunal is satisfied that either party has been impersonated or that any person who participated in the hearing did not have authority to represent the party concerned.

(4) An application made under subsection (3) shall be made within one month after the order was made or such further period as the tribunal may allow.

**32. Claims may be heard together**

(1) Where 2 or more claims are filed and it appears to a tribunal that -

(a) a common question of fact or law arises in both or all of them;

(b) the claims arose out of the same cause of action; or

(c) it would be in the interests of justice,

the tribunal may order that such claims be heard at the same time.

(2) The power conferred by this section may be exercised by a tribunal notwithstanding that the hearing of one or more the claims has begun.

**33. Representative claims**

(1) Subject to subsection (2), if 2 or more persons have claims against the same respondent, such claims may be brought in the name of one of such persons as the representative of some or all of them.

(2) A tribunal may, if at any stage of the proceedings it considers that a representative claim may prejudice the respondent, order that the claims of all or any of the persons represented be heard separately.

(3) Each person represented in a representative claim shall be deemed to have authorised the representative on his behalf to —

(a) call and give evidence and make submissions to a tribunal on any matter arising during the hearing of the claim;

(b) file affidavits, statements or other documents;

(c) agree to an adjournment or change of venue;

(d) agree to a settlement of the claim on such terms as he thinks fit;

(e) amend or abandon the claim; and

(f) act generally in as full and free a manner as such claimant may act on his own behalf.

(4) The authority deemed to be given to a representative by subsection (3) shall not be withdrawn except by leave of the tribunal.

(5) A tribunal may, at any time before determining any claim, grant leave to any person to join in the claim as a person represented on such terms as it may think fit.

**34. Evidence**

(1) A tribunal shall not be bound by the rules of Qanuon-e-Shahdat Order, 1984 but may inform itself on any matter in such manner as it thinks fit.

(2) Evidence tendered to a tribunal by or on behalf of a party to any proceedings shall be given on oath whether orally or in writing.

(3) A tribunal may, on its own initiative, seek and receive such other evidence and make such other investigations and inquiries as it thinks fit.

(4) All evidence and information received and ascertained by the tribunal under subsection (3) shall be disclosed to every party.

(5) For the purposes of subsection (2), the presiding officer of a tribunal is empowered to administer an oath.

(6) A presiding officer of a tribunal may require any written evidence given in the proceedings before a tribunal to be verified by statutory declaration.

(7) A presiding officer of a tribunal is not required to keep a record of the evidence given in any proceedings before a tribunal but shall make —

(a) a summary for the purposes of section 19(2), and

(b) notes of the proceedings.

**35. Judgment in default of appearance**

(1) If a respondent fails to appear at the hearing, by himself or by a representative pursuant to section 29(2), the claimant may apply to the tribunal for an order to be made against the respondent.

(2) Upon application made by the claimant under subsection (1), the tribunal shall grant him the order if it is satisfied that he is entitled thereto.

(3) An order shall not be made against a respondent under this section unless the tribunal is satisfied that a copy of the written claim and the notice of hearing have been served on the respondent under section 26.

**36. Control of procedure**

Subject to this Act and to the rules, a tribunal shall have control of its own procedure in the hearing of claims and, in the exercise of that control, shall have regard to the principles of natural justice.

**37. No costs allowed in proceedings**

Except as provided in section 38, costs, other than disbursements, shall not be granted to or awarded against any party to any proceedings before a tribunal or the Registrar.

**38. Frivolous or vexatious claims**

A tribunal may at any time dismiss a claim which it considers to be frivolous or vexatious on such terms as to costs as it thinks fit.

**39. Adjournments**

A tribunal may at any time, either of its own motion or on the application of any party, adjourn the hearing of proceedings on a claim on such terms as it thinks fit.

**40. Withdrawal of claim**

A claimant may at any time withdraw his claim whether or not a tribunal has heard the claim.

**41. Findings of the Tribunal. -**

(1) If after the proceedings conducted under section 26, the Tribunal is satisfied that the goods complained against suffer from any of the difficulties specified in the complaint or that any of all of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to take one or more of the following actions, namely

- (a) to remove defect from the goods in question,
- (b) to replace the goods with new goods of similar description which shall be free from any defect;
- (c) to return to the complainant the price or, as the case may be, the charges paid by the complainant.
- (d) To do such other things as may be directed for adequate and proper compliance with the requirements of sections 4,5 and 6; and
- (e) To pay such amount as may be awarded by it as compensation to the consumer for any loss or negligence of the opposite party.

(2) Every order made by the Tribunal under subsection (1) shall be signed

**42. Penalties. -**

- (1) Where any right of consumer required to be protected under section 10 is in any way infringed, the person responsible for such infringement shall be punished with imprisonment which may extend to two years or with fine which may extend to fifty thousand rupees, or with both and shall also be liable to provide such compensation, as may be determined by the Tribunal.
- (2) Whoever makes advertisement through print or electronic media or by chalking on walls or in any other manner in contravention of section 7, shall be punished with imprisonment, which may extend to two years, or with fine which may extend to twenty five thousand rupees, or with both,
- (3) The Tribunal may, where it is deemed appropriate, order for payment of compensation to the consumer to the extent the consumer suffered any damage or loss through any unfair trade practice.
- (4) The Tribunal may, where it is deemed necessary for protection of the rights of other consumers, order for confiscation of any goods or material or direct for their destruction,

- (5) The Tribunal may, where it is deemed appropriate, order for removal of the direct of the product involved or replacement.

**43. Appeal. -**

Any person aggrieved by an order made by the Tribunal may prefer an appeal such order to the High Court within a period of thirty days from the date of the order, and the provisions of the Code of Criminal Procedure, 1898 (V of 1898), in respect of appeal to the High Court shall, mutatis mutandis, apply.

**44. Appeal on point of law**

(1) Any party to proceedings before a tribunal may appeal to the High Court against an order made by the tribunal.

(a) on any ground involving a question of law; or

(b) on the ground that the claim was outside the jurisdiction of the tribunal.

**45. Powers of High Court on appeal**

(1) On an appeal under section 43, the High Court may —

(a) allow the appeal;

(b) dismiss the appeal; or

(c) remit the matter to the tribunal with such directions as the Court thinks fit, which may include a direction to the tribunal for a new hearing.

(2) On an appeal under section 43, the High Court may make such order as to costs and expenses as the Court thinks fit, but may not —

(a) reverse or vary any determination made by a tribunal on questions of fact; or

(b) receive further evidence.

(3) the High court is required to decide the appeal as far as possible, within 90 days from the first date of hearing.

(4) there shall be no court fee for filing appeal before the High Court.

**46. Stay of execution on appeal**

(1) The filing of a notice of appeal shall not operate as a stay of execution of an order unless the tribunal or the High Court, as the case may be, otherwise orders.

(2) Any stay of execution may be subject to such conditions as to costs, payment into a tribunal, the giving of security or otherwise as the tribunal or the Court thinks fit.

**47. Finality of Orders. -**

Every order of the Tribunal if no appeal has been preferred against such order under the provision of this Act shall become final.

**48. Dismissal of frivolous, or vexatious complaints. -**

Where a complaint is found to be frivolous or vexatious, the Tribunal shall dismiss the complaint and after due notice impose fine on complainant upto an amount not exceeding ten thousand rupees, for having wilfully instituted a false complaint. Appropriate compensation may also be awarded to the respondent from the amount of fine so realized.

**49. Principal, liable for offence of agent and servants. -**

Where any offence under this Act is committed by an agent or servant of any manufacturer or trader, such offence shall be deemed to have been committed by such manufacturer or trader unless he proves that such offence was committed without his knowledge.

**PART IV  
MISCELLANEOUS**

**50. Aid to the Court. -**

All agencies of the Government shall act in aid of the Consumer Tribunals for performance of their functions under this Act.

**51. Immunity. -**

No suit, prosecution or other legal proceedings shall lie against the Council or any member thereof or any functionary under this Act or acting under the direction of the Council or Government for anything which is in good faith done or intended to be done under this Act.

**52. Contempt of tribunal**

(1) Any person who —

(a) assaults, wilfully insults or obstructs a the presiding officer of a tribunal or any witness or officer of a tribunal during a sitting of a tribunal or while a presiding officer of a tribunal, witness or officer is on his way to or from such a sitting;

(b) assaults or wilfully insults or obstructs any person in attendance at a sitting of a tribunal;  
(c) wilfully interrupts or otherwise misbehaves at a sitting of a tribunal; or  
(d) without lawful excuse, disobeys any order or direction of a tribunal during a sitting of the tribunal, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Rs10,000 or to imprisonment for a term not exceeding 6 months.

(2) A tribunal may by oral order exclude from a sitting of the tribunal any person whose behaviour in the opinion of the presiding officer of a tribunal constitutes an offence under subsection (1) whether or not such person is charged with the offence.

(3) The presiding officer of a tribunal or officer under his control or any police officer may take such steps as are reasonably necessary to enforce such exclusion.

(a) a tribunal acting under section 28 (3) and (4); and

(b) a person who gives information or makes any statement to the Registrar or tribunal on any such occasion.

**53. Publication of orders**

The Registrar shall cause to be published, in such manner as the Government from time to time directs, such particulars relating to proceedings in tribunals as the Government specifies in the direction.

**54. Person not precluded from filing claim in court**

Nothing in this Act shall be construed as precluding a person from lodging a claim that is within the jurisdiction of a tribunal in any other court if that person elects to institute proceedings in that other court to hear and determine that claim

**55. Power to make rules. -**

Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**56. Power to remove difficulties. -**

If any difficulty arises in giving effect to any of the provisions of this Act Government may make such orders, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing such difficulty.

MINISTER INCHARGE