

**GOVERNMENT OF KHYBER PAKHTUNKHWA INDUSTRIES,
COMMERCE AND TECHNICAL EDUCATION
DEPARTMENT**

NOTIFICATION

Dated Peshawar the 09th February, 2022

No. SO(Lit)/IND/5-2/2022: In exercise of the powers conferred by section 22 of the Khyber Pakhtunkhwa Consumer Protection Act, 1997 (Act No. VI of 1997), read with sections 11A, 11B, 11C and 13 thereof and in supersession of the Khyber Pakhtunkhwa Consumer Protection Rules, 2007, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:



**THE KHYBER PAKHTUNKHWA CONSUMER
PROTECTION RULES, 2021**

**CHAPTER-I
INTRODUCTION**

1. **Short title and commencement.**---(1) These rules may be called the Khyber Pakhtunkhwa Consumers Protection Rules, 2021.

(2) It shall come into force at once.

2. **Definitions.**---(1) In these rules unless there is anything repugnant in the subject or context, -

- (a) “Act” means the Khyber Pakhtunkhwa Consumers Protection Act, 1997 (Act No. VI of 1997);
- (b) “agent” means a person duly authorized by the complainant to present any complaint, appeal or reply on his behalf and to represent it in the proceedings before the Court or the Director, as the case may be, subject to permission of the Court or the Director, as the case may be;
- (c) “authorized officer” means an officer of the Directorate to whom powers have been delegated under sub-section (3) of section 11C of the Act;
- (d) “complaint” means a written, verbal or e-complaint filed under the Act with the Court or the Director or authorized officer, as the case may be;
- (e) “complainant” means an aggrieved consumer or as the case may be, the Director or Authorized Officer, who files a complaint under these rules;
- (f) “Consumer right” includes legitimate interests of Consumers in the course of commercial practices and services delivery as protected by the Act, these rules, the Council’s policy and by any other law for the time being enforce, and includes the similar interests protected under the international laws, covenants and declarations adopted, ratified, and signed by the Government of Pakistan;

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- (g) **"Court"** means the Consumer Court established under section 11A of the Act.
- (h) **"Form"** means a Form as provided in Schedule-I;
- (i) **"Department"** means Industries, Commerce and Technical Education Department of the Government;
- (j) **"price fixation"** means the price of the commodities and services fixed by District Price Review Committee or by any other forum authorized by any other law for the time being in force and includes the Court as mentioned in clause (o) of section 2 of the Act;
- (k) **"Province"** means the Province of Khyber Pakhtunkhwa;
- (l) **"Registrar"** means the head of ministerial establishment of the Court exercising such powers and functions as assigned to him by the Court;
- (m) **"respondent"** means a person or entity against whom a complaint of defect, deficiency or infringement of Consumer right has been made; and
- (n) **"Schedule"** means a Schedule appended to these rules.

(2) Words and expressions used in these rules but not defined shall have the same meanings as are assigned to them in the Act.

CHAPTER-II COMPLAINT, INQUIRY AND INSPECTION

3. **Complaint before the Court or Director or authorized officer.**—(1) Any aggrieved Consumer or his agent may file a complaint on Form-I before the Court or the Director or authorized officer, as the case may be, under section 11-B or 13 of the Act and such complaint shall be duly verified by the complainant:

Provided that where a complaint is made verbally, the same shall be reduced into writing by the Registrar or the Director or authorized officer, as the case may be, on Form-I, as soon as may be practicable, and shall be verified accordingly.

(2) In case a complaint in respect of similar matter relating to a particular jurisdiction is simultaneously filed by a complainant before the Director or authorized officer and the Court of a concerned district, the complaint before the Director or authorized officer shall abate:

Provided that where the Court deems necessary, it may pass an order to assign an inquiry to the Director or authorized officer under sub-section (1) of section 11C of the Act. The Director or the authorized officer, as the case may be, after completion of the inquiry shall send his inquiry report to the Court. Upon receipt of the report, the Court shall pass final order keeping in view the report and evidence.

4. **Complaint before the Court by Director or authorized officer.**—The Director or authorized officer, as the case may be, may file complaint under clause (d) of sub-section (1) of section 13 read with section sub-section (2) of section 11B of the Act, before the Court on Form-II.

5. Scrutiny of complaint filed before the Court.---(1) Every complaint shall, after being filed in the Court under rules 3 and 4 of these rules, be numbered and scrutinized by the Registrar and if there is any defect in the filing of the complaint, the particulars of such defects shall be recorded and the complainant shall be informed of the defects requiring him to remove the same within three days.

(2) In case the complainant disputes the correctness of the defects pointed out by the Registrar, the matter shall be placed before the Court for appropriate order.

(3) After the expiry of the time given for removing the defects under sub-rule (2), the matter shall be placed before the Court for appropriate orders irrespective of the fact as to whether the defects have been removed or not.

6. Registration of complaints.---(1) The complaint shall be registered in the register maintained by the Registrar for the purpose. Such register shall have the following particulars, namely:

- (a) serial number of the complaint;
- (b) date of institution of the complaint;
- (c) name, parentage, residence and other particulars of the complainant;
- (d) name, parentage and residence of the respondent;
- (e) nature of defect or deficiency complained of; and
- (f) final order.

(2) When a complaint is presented to the Court, it shall-

- (a) fix a date of not more than fifteen days for the appearance of the respondent; and
- (b) issue summons to the respondent to appear on a date specified therein.

7. Procedure for inquiry.---(1) The Director or authorized officer, as the case may be, may on his own motion or on receipt of a complaint or on the directions of the Court under sub-section (1) of section 11C of the Act, shall get the case registered in the register to be kept by him for the purpose and proceed to conduct inquiry for determination of defect, deficiency or unfair trade practice in contravention of any of the provisions of the Act and these rules.

(2) The Director or authorized officer, as the case may be, if deem necessary, may issue a notice to the violator as specified in **Schedule-II** and shall proceed to hold an inquiry into the substance of the complaint and collect such evidence as he deems necessary under section 11C of the Act.

(3) The inquiry shall be conducted in accordance with the procedure as provided in section 11C of the Act.

(4) The Station House Officer of the local police station or any other police officer higher in rank, on requisition by the Director or authorized officer, as the case may be, shall provide necessary police force for assistance of the Director or authorized officer, as the case may be, at any place within the jurisdiction of such police station, where such commercial activities or transactions of trade and commerce are being carried out or where the products are being sold or services are

(5) If the Director or authorized officer, as the case may be, is satisfied, after inquiry under section 11C of the Act, that sufficient material is available to prove any violation of the provisions of the Act or these rules, he shall pass an order accordingly:

Provided that before passing an order, an opportunity of being heard shall be given to the violator or accused:

Provided further that where the inquiry is conducted on the direction of the Court, the Director or authorized officer, as the case may be, shall submit the inquiry report to the Court. On receipt of the inquiry report, the Court shall pass appropriate orders.

(6) If the Director or authorized officer, as the case may be, serves a notice upon the violator as referred to in sub-rule (2), and if he fails to appear, the Director or authorized officer, as the case may be, shall require the police to produce the violator before him or he may proceed ex-parte in case the violator is at large or cannot be produced by the police.

8. Deficiency in goods.---(1) The Director or authorized officer, as the case may be, while examining goods for the purpose of any deficiency therein, shall examine as to whether-

- (a) the sale of product is subject to any statutory, contractual or professional standards;
- (b) the manufacturer has set some standards with regard to the product;
- (c) the product adheres to an express warranty;
- (d) the utensils and equipment used by the manufacturer comply with any statutory, contractual or professional standards;
- (e) the material used by product manufacturer is detrimental and injurious to the lives and health of the Consumer;
- (f) the product complies with hygienic, cleanliness and safety standards;
- (g) the quality of the product;
- (h) the manufacturer possesses adequate capacity and qualification to manufacture the goods;
- (i) the seller possesses adequate capacity and qualification to store and sell the product;
- (j) the seller uses any other fraudulent means;
- (k) the place or premises where goods are sold comply with any statutory, contractual or professional health, environment and safety standards; and
- (l) the product is defective due to any other cause.

(2) In determining whether the product adheres to manufacturer's specifications and warranty or not, the Director or authorized officer, as the case may be, may take samples and refer it to a laboratory or expert opinion and shall proceed as deemed appropriate.

(3) In determining whether a product is defective or not, the Director or authorized officer, as the case may be, shall consider defect in design or defect due to any other cause or inadequate warning on the product or a defect in accordance with section 7B of the Act.

9. **Deficiency in services.**---(1) If the Director or authorized officer, as the case may be, is inquiring about the existence of a deficiency in a service, he shall examine that whether-

- (a) the provisions of services are subject to any statutory, contractual or professional standards;
- (b) the services carry an express warranty;
- (c) the equipment used by the service provider are of satisfactory standard and quality;
- (d) the material used by service provider is according to any statutory, contractual or professional standards;
- (e) the material used by the service provider is detrimental and injurious to the lives and health of the Consumer;
- (f) the quality of the service;
- (g) the place or any premises where services are being provided comply with any statutory, contractual or professional health, environment and safety standards;
- (h) the service provider possesses adequate capacity and qualifications to deliver the service; and
- (i) the service provider uses any other fraudulent means.

(2) In examining the aspects of a service under sub-rule (1), the Director or authorized officer, as the case may be, may rely on the evidence of an expert opinion or laboratory reports.

10. **Sealing of premises.**---(1) Where the Director or authorized officer, as the case may be, after inspection under clause (i) of sub-section (2) of section 11C, is of the opinion that-

- (a) a fault or defect in goods or deficiency in any service exists or unfair trade practices are being carried out or likely to be carried out;
- (b) the manufacturer, trader, dealer, goods or services provider is involved in any unfair trade practices;
- (c) the standard, price, quality, quantity, weight, measures and purity of any food items, or other essential commodities or any other item of use which is unfit or injurious to the Consumer in terms of health or money or contravenes or violates any other law or provisions of law or rule for the time being in force which in any way protect consumers; and
- (d) violation of any provision of the Act or these rules is being committed or is likely to be committed;

he may, in the circumstances of the case, proceed to seal the premises under clause (v) of sub-section (2) of section 11C of the Act. Upon sealing the premises he shall seize and detain goods and products being sold or delivered or cause to be sold or delivered and also confiscate record of business, license or No Objection Certificate or any other books or registers of commercial transaction, if any, under clause (iv) of sub-section (2) of section 11C of the Act.

(2) The Director or authorized officer, as the case may be, in case of seizure of goods etc, under sub-rule (1), shall prepare a memorandum of sealing as provided in Schedule-III stating the detail of goods and products so seized or detained and such memorandum of sealing shall be witnessed and signed by two witnesses and it shall be made part of the record of inquiry.

(3) The goods, products, records or any other things seized or detained under sub-rule (1), shall be kept in safe custody of the Director or authorized officer, as the case may be.

(4) The goods, products, records or any other things seized or detained under sub-rule (1), by the Director or authorized officer, as the case may be, shall be disposed of as per order of the Court, by referring the case to the Court for destruction, auction or return of goods or property, as deemed appropriate.

(5) If the manufacturer, trader or goods or services provider desires to re-open the premises, he shall pay the fine, as imposed by the Director or authorized officer, as the case may be, and also give an undertaking on stamp paper with regard to his fair business on the Form as provided in Schedule-IV. Upon receipt of such undertaking, the Director or authorized officer, as the case may be, shall give him a "re-opening of business certificate" as provided in Schedule-V.

11. **Fine recovery and consumers rights violation ticket (Challan).**---(1) The amount of fine imposed by the Director or authorized officer, as the case may be, under sub-section (1) of section 11B of the Act shall be specified unambiguously on a Consumer's rights violation ticket (Challan) as provided in Schedule-VI of which one copy shall be handed over to the violator and second copy shall remain with the Director or authorized officer, as the case may be.

(2) The violators shall pay and deposit the fine imposed by the Court, Director or the authorized officer, as the case may be, in the Government treasury under the following heads of account, namely:

Major Object	CO2	Receipts from civil administration and other functions.
Minor Object	CO29	Social Services Miscellaneous.
Detailed Object (new)	CO2954	Penalty under the Khyber Pakhtunkhwa Consumers Protection Act, 1997.

(3) If the fine, imposed by Director or authorized officer, as the case may be, is not paid on the spot or the violator refused to pay the fine, the same shall be recovered as arrears of land revenue under the West Pakistan Land Revenue Act, 1967.

12. **Support in collection of evidence.**---The Director or authorized officer, as the case may be, in exercise of his functions, may require any information and support concerning Consumer rights from all public and private sector entities. Moreover, photographs and videos shall also be considered as evidence if made or taken in the presence of owner or his representative or witnesses.

13. **Consumer protection order.**---The Director or authorized officer, as the case may be, after conducting an inquiry on an application made to him or on his own motion, shall pass an order in writing to this effect. It shall be referred as Consumer protection order duly signed and dated. The same shall be communicated to Court or person concerned.

CHAPTER-III

PROCEDURE ON COMPLAINTS AND APPEAL

14. Institution of appeals in the Court.---(1) Any person aggrieved from an order of Director made under sub-section (1) of section 11B of the Act, may file an appeal in the Court under sub-section (1) of section 17 of the Act against the said order within the stipulated time period. The appellant shall provide to the Court two sets of documents and additional set of documents equal to the number of respondents.

(2) The memorandum of appeal shall contain particulars of dispute and relief claimed and shall also be accompanied by copies of such documents as are necessary to prove the claim made in complaint or grounds of appeal.

15. Particulars of appeal under section 17 of the Act.---An appeal under sub-section (1) or sub-section (2), as the case may be, of section 17 of the Act shall be filed by the appellant in the following manner, namely;

- (a) the memorandum of appeal shall be in writing, signed by the appellant and shall set forth concisely the grounds of appeal, brief facts of the case without any detailed argument or narrative and such grounds shall be numbered consecutively; and
- (b) the memorandum of appeal shall be accompanied by a certified copy of the impugned order and of such other documents as may be required in support of appeal.

16. Scrutiny of appeals.---(1) Every appeal shall, after being filed, be registered, numbered and scrutinized by the Registrar. If there is any defect in the filing of the appeal, the particulars of such defects shall be recorded and the appellant or agent shall be informed of the defects requiring him to remove the said defects within three days.

(2) In case the appellant disputes the correctness of the defects pointed out, the matter shall be placed before the court for appropriate orders.

(3) After expiry of the time given under sub-rule (1), the matter shall be placed before the court for appropriate order, irrespective of the fact as to whether the defects have been removed or not.

17. Applicability of Codes to appeals or complaints etc.---(1) Where the nature of proceedings in appeal or a complaint is criminal, the provisions of the Code of Criminal Procedure, 1898 shall *mutatis mutandis* apply.

(2) Where the nature of proceedings in appeal or complaint is civil, the provisions of the Code of Civil Procedure, 1908 shall *mutatis mutandis* apply.

18. Issue of summons and notice.---(1) On acceptance of appeal or complaint, summons or notice shall be issued to the respondent in the manner as provided in the Code of Civil Procedure 1908 or the Code of Criminal Procedure, 1898 as the case may be, depending on the nature of proceedings in complaint or appeal.

(2) The Court may appoint a courier agency operating within its jurisdiction for the purposes of effecting service on such security given to it by the courier agency as the Court may require.

(3) Along with the summons and notice

19. Adjournment.---(1) Every proceedings before the Court shall be conducted as expeditiously as possible and as per requirements of the Act and these rules.

(2) The Court shall record the reasons for any adjournment made by it. The number of adjournments shall not be more than three times in a particular matter.

(3) In case of adjournment sought by respondents, the Court shall be imposed adjournment costs which shall not be less than five hundred rupees per adjournment.

(4) The complainant or appellant, as the case may be, may also be burdened with cost unless sufficient cause is shown for seeking adjournment.

(5) The cost imposed under sub-rule (3) or (4), may be given to the other party or parties to defray his or their expenses.

(6) Non-availability of council or lawyer representing any party shall not be a ground for seeking adjournment of the matter unless his absence is beyond his control for reason of sudden illness or bereavement in the family.

20. Summons to respondent in complaint of offence.---(1) When complaint of offence is presented to the Court it-

- (a) shall fix a date of not more than seven days for the appearance of the respondent; and
- (b) shall issue summons to the respondents for appearance on a date specified therein.

(2) If the respondent avoids receiving summons or being served upon him or her or does not appear before the Court after having been informed, the Court may issue warrant of arrest to compel his appearance before the Court.

21. Record in cases.---The record in cases, in which the Court take cognizance, shall be maintained in the manner hereinafter provided and shall contain the following, namely:

- (a) serial number of case;
- (b) date of the commission of the offence;
- (c) date of complaint;
- (d) name, parentage and residence of the complainant, if any;
- (e) name, parentage and residence of respondent;
- (f) offence complained of;
- (g) plea of the respondent and his examination (formal charge);
- (h) if respondent does not admit the charge, the substance of the evidence;
- (i) statement of the respondent on questions from the evidence; and
- (j) judgment of the Court and final order of conviction or acquittal.

22. Written reply.---(1) On the date fixed, the complainant and respondent shall appear before the Court and the respondent shall be required to file his reply on such date as the Court may specify.

(2) If the respondent fails to appear on the date fixed by the Court for appearance, and if-

- (a) it is proved that summons was duly served on respondent, the Court may proceed *ex parte*:

Provided that where the court has adjourned hearing of the complaint *ex parte*, and the respondent at or before such hearing appears and assigns good cause for his previous non-appearance, he may, upon such term as the Court directs, be heard in response to the complaint as if he had appeared on the day fixed for his appearance; and

- (b) in the absence of proof of service of summons upon respondent or information to him, the Court may direct for issuing of any process under rule 19.

23. Recording of evidence.---(1) On the date fixed for the recording of the evidence, the Court shall examine the witness produced by the parties in such order as it deems fit.

(2) The Court shall not issue any summons for the appearance of any witness unless, within three days after fixation of date for evidence, any party intimates the Court that it desires a witness to be summoned through the Court and the Court is satisfied that it is not possible or practicable for such party to produce the witness.

(3) The Court may permit the evidence of any person to be given by means of an affidavit or he may be examined through commission to be appointed by the Court on such terms, as it deems fit, or through online video link using modern means of communication if workable in particular nature of a case.

24. Conclusion of trial.---(1) After the close of evidence of both sides, the Court shall hear the arguments which shall be as brief as possible.

(2) Where a party is represented by a counsel, it shall be mandatory to file a brief of written arguments two days before the matter is fixed for arguments:

Provided that the Court, in particular circumstances, may direct otherwise and hear the verbal arguments.

(3) In case of default to comply with the requirements of sub-rule (2), the costs shall be imposed at the same rate as laid down for grant of adjournments.

(4) The Court shall announce its judgment at once or on an adjourned date which shall contain an operative part at its end with a final order directing its compliance by the judgment-debtor within a time as may be specified by it. In case or criminal proceedings, the order shall contain direction as the conviction or acquittal of the accused.

25. Execution of order.---(1) If the judgment-debtor fails to comply with the final order within the stipulated time, the Court, on its own motion or on an application made to it, may proceed to ensure the compliance of its order through coercive measures provided for execution of a money decree in Code of Civil Procedure, 1908 where the nature of proceedings is civil.

(2) In case of criminal proceedings, the provisions of the Code of Criminal Procedure, 1898 shall apply to the recovery of fine, execution of sentence

26. **Implementation of the appellate order.**---When the impugned order is set aside, modified or varied, by the Court or the High Court on appeal, the Director or authorized officer, as the case may be, shall implement the same and act in accordance therewith.

27. **Supplemental proceedings.**---(1) In order to prevent the ends of justice from being defeated, the Court may, depending on the nature of proceedings, exercise all the powers as vested in a Civil Court under Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1898, as the case may be, for supplemental proceedings and may-

- (a) grant temporary injunction and in case of disobedience commit the person guilty thereof to the civil prison and order that his property be attached and sold; and
- (b) make such other interlocutory orders as may appear to the Court to be just and convenient.

(2) An *ex-parte* interim order issued by the Court shall stand vacated after forty five days if in the meanwhile objections to such order are not heard and disposed of.

CHAPTER-IV COURTS

28. **Place of sitting of Court.**---Subject to any general or special orders of the Government in this behalf, the Court shall hold its sittings at a place within the district or area for which it is established or in any other district or area, as may be assigned to it by Government for the time being.

29. **Dress code.**---The Presiding Officer of the Court shall follow the same dress code as prescribed by the Peshawar High Court, Peshawar for members of the district judiciary in the Province.

30. **Hearing hours.**---Subject to any general or special orders, the working hours of the Court for hearing matters shall be the same as specified by the High Court for district courts.

31. **Cause list.**---(1) Cause list of the Court for the following week shall be prepared ready before closing of working hours of the preceding week and shall be displayed on notice board. The cause list of the Court shall also be uploaded on website of the Court.

(2) The cause list shall be split into the following three parts, namely:

- (a) after notice matters;
- (b) matters where evidence is to be recorded; and
- (c) final disposal matter or order.

(3) The cause list shall contain the following particulars, namely:

- (a) serial number;
- (b) number of the matter;
- (c) title of the matter;
- (d) previous date of proceedings; and
- (e) name of the parties or agent appearing.

(4) If a date of hearing is given in presence of parties to a complaint or appeal or their agents, it shall not be ground for non-appearance for the reason that the cause list for the concerned date does not show the matter or contains incorrect entry or there is omission of the particulars of the matter.

32. Record of Court.---(1) The entire record of each complaint and appeal including documents forming part of the appeal shall be preserved by the Registrar in the record room of the Court.

(2) Any original documents produced in evidence by either party shall be returned to such party within fourteen days of issuance of the final decision while retaining copies thereof which shall be attested by the Registrar.

33. Public record.---The decision of the Court and the pleadings of the parties shall be public record and certified copies thereof may be obtained by any member of the public, upon submitting an application to the Registrar.

34. Registers of the Court.---The following registers of the Court shall be maintained by the Registrar, namely:

- (a) register of complaints for showing institution and disposal of complaints;
- (b) register of appeals;
- (c) subsidiary registers for administrative purpose;
- (d) register of statistics for preparing monthly and annual progress of complaint disposal;
- (e) register for keeping accounts of court fees; and
- (f) any other relevant registers required to be maintained under the High Court Rules and Orders.

35. Non execution of Court orders.---(1) Whoever disobeys or disregards any order, direction or process of Court, which he is legally bound to obey or commits a willful breach of a valid undertaking given to the Court or does anything which is intended to or tends to bring the authority of the Court or the administration of law into disobedience, disrespect or disrepute, or to interfere with or obstruct or interrupt or prejudice the process of law or the due course of any judicial proceedings before the Court, or to lower the authority of the Court or scandalize the judge of the Court in relation to his office, or to disturb the order or decorum of the Court is said to commit disobedience of Court orders.

(2) Any person who commits disobedience to the order of the Court shall be punished with simple imprisonment which may extend to six months or with fine which may extend to rupees one hundred thousand or with both.

(3) The proceedings of disobedience of Court shall be conducted in accordance with provisions of Order XXXIX of the Code of Civil Procedure, 1908.

CHAPTER-V
MEETINGS OF THE COUNCIL

36. Conduct of meetings of the Council.---(1) All decisions in the meeting of the Council shall be taken by majority of votes and in case of tie, the Chairman or the member presiding the meeting shall have a casting vote.

(2) The proceedings of the meetings shall be recorded and maintained by the Secretary of the Council and minutes of the meetings, upon approval from the Chairman, shall be circulated amongst the members of the Council.

37. Nomination of non-official members.---The non-official members of the Council shall be appointed by Government on the recommendations of the Search and Scrutiny Committee constituted under rule 39.

38. Search and Scrutiny Committee.---(1) There shall be a Search and Scrutiny Committee which shall recommend persons to Government for appointment as non-official members of the Council.

(2) The Search and Scrutiny Committee shall consist of the following, namely:

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|-----|---|-------------------------------|
| (a) | Secretary to Government, Industries, Commerce and Technical Education Department; | Member |
| (b) | Secretary Finance or his nominee not below the rank of an Additional Secretary; | Member |
| (c) | Secretary Establishment or his nominee not below the rank of an Additional Secretary; | Member |
| (d) | Additional Secretary, Industries, Commerce and Technical Education Department; and | Member |
| (e) | Director Industries and Commerce. | Member
-cum-
Secretary. |

(2) The Search and Scrutiny Committee shall recommend not more than three persons for each position of the non-official members to the Government for appointment of one of them against each position.

(3) After approval of Government, the Department shall notify the appointment of non-official members.

39. Resignation and termination of non-official members.---(1) The non-official members of the Council may tender their resignation to the Government, through the Chairman; provided that unless the resignation so tendered is approved, the non-official member shall continue to function as member.

(2) The non-official members of the Council may be removed by Government on the following grounds, namely:

- (a) if he fails to attend three consecutive meetings:

Provided that has been given proper notice by the Chairman after such absence and he has failed to respond to the said notice within a period of thirty days from the date of such notice;

- (b) if he has indulged in an activity which contravenes the provisions of the Act and these rules; and
- (c) if he has been convicted by a court of law for an offence involving moral turpitude or corrupt practices.

CHAPTER-VI
MISCELLANEOUS

40. Protection of rights of Consumers.---The Council shall, while performing its functions under the Act, shall protect the rights of Consumers, namely:

- (a) the right to be protected against the marketing of goods and services which are hazardous to life and property;
- (b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may, so as to protect the Consumer against unfair trade practices;
- (c) right to be assured, wherever is possible, access to variety of goods and services at competitive prices;
- (d) the right to be heard and to be assured that Consumer's interests shall receive due consideration at appropriate forum;
- (e) the right to seek redressal against unfair trade practices or restrictive trade practices or devious exploitation of Consumers; and
- (f) the right to Consumer education.

41. Availability of goods and services at competitive price.---The Council may categorize and fix price of goods and services not falling in the purview of any other law and rules, for the time being in force, on proposal of the Director or authorized officer or the Deputy Commissioner of the district concerned, to ensure provision of goods and services at competitive prices to the Consumers and to restrict unfair trade practices.

42. Laboratories and experts.---(1) For the purpose of sample testing, the Director may register-

- (a) a laboratory recognized for the purposes of test of products or equipment;
- (b) a laboratory recognized specifically to carry out any one or more categories of tests based on specialized capacity of the laboratory and its proposed cost for carrying out the analysis; and
- (c) for the purpose of getting expert opinion, the Director may recognize in writing expert person or entities in different specialties with verified qualification and experience. The expert or entity shall be recognized by the concerned Department related to the specialties.

(2) The Director may, for the reasons to be recorded in writing, de-register or cancel registration of a laboratory or recognition of an expert person or entity.

43. E-Commerce.---(1) The provisions of these rules shall also apply to all online businesses either through an official website of the vendors or through online market place.

(2) For the purpose of these rules, screenshots obtained of the information displayed about a transaction shall be sufficient to be considered as a transaction.

(3) All the vendors shall display the relevant information about the product and services offered through an online platform.

(4) Exchange or buyback policy shall be displayed on the website of the vendor.

(5) Active cell or telephone numbers shall be displayed for convenience of the Consumers.

(6) All the vendors and businesses shall comply with the e-commerce policy of Pakistan 2017.

44. Repeal.---(1) The Khyber Pakhtunkhwa Consumers Protection Rules, 2007 notified vide No. 3-94/03/Vol-II, hereby repealed.

(2) Notwithstanding the repeal of the above said rules, any orders or notifications issued, decisions made, action taken shall, in so far as they are not inconsistent with the provisions of the Act or these rules, be deemed to have been issued, made or taken under these rules.

(3) Any reference in the above mentioned instruments, to the relevant provisions of the rules repealed under sub-section (1), shall be deemed to be a reference to the corresponding provisions of these rules.

SCHEDULE-I

(see sub-rule (1) of rule 3 and rule 4)

FORM-I

Form for complaint by Consumer before Court/ Director/Authorized Officer

Before Court/Director/Additional Director/Deputy Director/Assistant Director
Consumer Protection Council District _____

In the matter of _____

Name of complainant _____

Address _____

VERSUS

Name opposite party _____

Address _____

I/we, the above-named complainant/complainants respectfully state before your
good-self the complaint as follows:

It is therefore prayed that legal action may be taken against the violator under the
Act and complainant may be compensated.

Signature of Complainant _____

Name of Complainant _____

Place _____

Date _____

FORM-II

Form for complaint before Court by Director or authorized officer

Case No _____

Dated _____

IN THE COURT OF HON'BLE JUDGE CONSUMER COURT, DISTRICT _____

State through _____

Director/ Additional Director Consumer Protection Council/ Deputy Director
Consumer Protection Council/ Assistant Director Consumer Protection Council
District _____

(Complainant)

VERSUS

Name/Entity: _____

CNIC No: _____ Phone: _____

Address _____

(Respondent)

Respectfully submits complaint under clause (d) of sub-section (1) of section 13/sub-section (2) of section 11B of the Khyber Pakhtunkhwa Consumer Protection Act, 1997:

That the undersigned:

(a) Received a complaint from _____ dated _____

(b) Inspected the above mentioned establishment on _____
and found the following violations:

(c) Conducted inquiry on _____ and found following violation:

The facts of the inquiry/inspection complaint are that _____

Place of Occurrence: _____ Time and date of occurrence _____

A violation punishable under Section _____ of the Act.

REMEDY CLAIMED: _____

- (a) Remove the defects/replace the defective goods /cease and desist from carrying out the unfair trade practice/issue a correction of misleading advertisements etc.
- (b) Refund the excess price/refund the charges paid for deficient services/a sum of Rs. _____ together with an interest at the rate of _____ from _____ till date of realization.
- (c) Pay a sum of Rs. _____ towards punitive compensation for mental agony, inconvenience and hardship caused.
- (d) Pay costs of this complaint and.
- (e) Pass such further or other order as this Hon'able court may deem fit and proper in the circumstances of the case and thus render justice.

Enclosures:

- 1. _____
- 2. _____
- 3. _____

Signature & Seal of the Officer

VERIFICATION

I _____ S/D/W of _____
CNIC No _____ hereby solemnly declares and affirms on
oath that the particulars stated above are true to the best of my knowledge and belief
and nothing has been concealed therein. I further certify that the documents
appended to the complaint are the true copies of original documents.

Verified at _____ this day of _____

Signature of Complainant _____

Place _____

Name of Complainant _____

SCHEDULE-II
(see sub-rule (2) of rule 7)

Notice No _____

Dated _____

NOTICE FOR CONSUMER RIGHTS VIOLATION

Name and address _____

of the trader, dealer, firm, company, etc.

IN RE: *(Details of the goods/services)* _____

Through this notice under Khyber Pakhtunkhwa Consumer Protection Rules 2016, this is to bring to your notice that: -

Mr/Miss/M/s _____
purchased above mentioned goods/services from your entity for a consideration of
Rs. _____ paid in cash vide your Cash Memo/Receipt/Invoice No. _____
_____ or paid through cheque No. _____
dated: _____ drawn on bank.

The said goods are suffering from the following defects: -

Which is an offence/ violation under the Khyber Pakhtunkhwa Consumer Protection Act, 1997. The complainant has reported the above matter to you several times (give reference of earlier letters, if any) but despite all of his pleadings, you have not made good the defect in the goods (or deficiency in services) which is indeed regrettable and highly un-business like. On account of your aforesaid dereliction of duty and failure and neglect to rectify the same the complainant has suffered or likely to suffer losses/incurred expenses. (give details) _____

Which, you are liable to compensate to him.

You are hereby finally called upon to appear and defend yourself before

DIRECTOR/ASSISTANT DIRECTOR CONSUMER PROTECTION COUNCIL

Address: _____

and

- (a) Remove the said defects in the goods, and/or
- (b) Replace the goods with new goods, and/or
- (c) Return the price/charges or over price/charge paid
- (d) Pay compensation for financial loss/injury/interest suffered due to your negligence (give details) in sum of Rs. _____ with interest @ _____ % per annum

Through this notice, You are directed to rectify the above mentioned shortcomings within _____ days of the receipt of this notice failing which I shall be constrained to initiate legal action against you to redress the aforesaid grievance(s) and recovery of the aforesaid amount under civil and criminal proceedings as warranted by law, besides filing a complaint under the statutory provisions of the Khyber Pakhtunkhwa Consumer Rights Protection Act 1997 exclusively at your own risk, cost, responsibility and which please note.

Place _____
Dated _____

Seal and Signature of the Officer

SCHEDULE-III

(see sub-rule (2) of rule 10)

MEMORANDUM OF SEALING

The premises of Mr/M/s _____ located at _____

_____ District _____

is hereby sealed today on _____ under section 11C (2)(v) of the Act, as
found indulged in _____ hereby violated
Section/Rules _____ of Khyber Pakhtunkhwa
Consumers Rights Protection Act/Rules.

List and Particulars of items seized

Signature of the Officer _____

SCHEDULE-IV
(see sub-rule (5) of rule 10)

SOLEMN UNDERTAKING FOR BUSINESS RE-OPENING/DE-SEALING

UNDERTAKING

I _____ S/o _____

CNIC No _____ owner of the _____

Resident of _____

Do hereby solemnly affirm and declare on oath that:

- (a) I will never go against any of the provision of the Khyber Pakhtunkhwa Consumer Protection Act, 1997 (amended 2016) or Rules made there under, and if found indulge in any activity whereby violating any provision of Khyber Pakhtunkhwa Consumer Protection Act, 1997 (amended 2016) or Rules made there under; would be liable to the cancellation of license/NOC and maximum fine fixed under the Act *ibid*.
- (b) That the particulars stated above are true to the best of my knowledge and belief and nothing has been concealed therein

Verified at _____ this day of _____

Signature of the owner _____

SCHEDULE-V
(see sub-rule (5) of rule 10)

Case No _____

Dated _____

BUSINESS RE-OPENING CERTIFICATE

I, Director/Additional Director/Deputy Director Consumers Rights Protection, state that an oath statement on Schedule-IV and a fine to the tune of Rs. _____ has been received today on _____ from _____ and Form-VII No. _____ has been issued.

After having been satisfied by the owner not to indulge in any sort of activity whereby violating Khyber Pakhtunkhwa Consumer Protection Act, 1997 or the rules made thereunder.

I, _____ therefore, grant this certificate for re-opening his/her business subject to conditions specified in his/her undertaking.

Seal and Signature of Officer _____

SCHEDULE-VI
(see sub-rule (1) of rule 11)

Serial No _____

Date _____

CONSUMERS RIGHTS VIOLATION TICKET (CHALLAN)

Name of Offender _____

Name of the Entity _____

Address of Entity _____

CNIC # _____ Phone/Cell # _____

TYPE OF BUSINESS

- | | | |
|--|--|-------------------------------------|
| 1. Sole Trader <input type="checkbox"/> | 2. Firm <input type="checkbox"/> | 3. Company <input type="checkbox"/> |
| 1. Manufacturer <input type="checkbox"/> | 2. Wholesaler <input type="checkbox"/> | 3. Dealer <input type="checkbox"/> |
| 4. Retailer <input type="checkbox"/> | 5. Service Provider <input type="checkbox"/> | |

Violation under Section _____ of Consumer Protection Act 1997
(Amended 2015) Violation/Offence committed _____

Fine Imposed Rs: (In Fig) _____ (In Words) _____

Fine/Penalty deposited in Government Treasury under Head of Account CO2954.

Evidence: _____

Witness: _____

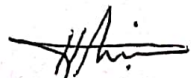
Authorized Officer
Consumer Protection Council
District _____

**SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
INDUSTRIES, COMMERCE AND TECHNICAL
EDUCATION DEPARTMENT**

Endst: No. SO(Lit)/IND/5-2/2022 / 1834-36 Dated Peshawar the 09th February, 2022

Copy forwarded to the:

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. All Administrative Secretaries to Government of Khyber Pakhtunkhwa
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. Registrar, Peshawar Higher Court, Peshawar.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Deputy Commissioners in Khyber Pakhtunkhwa.
- ✓ 8. Director General Industries & Commerce, Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. Deputy Legislation Officer-II, Law Department Khyber Pakhtunkhwa.
11. Controller Printing & Stationery Department with the request that the notification may be published in the official Gazette and thirty (30) copies thereof provided to this Department.
12. PS to Secretary Industries, Commerce & Technical Education Department.


Section Officer (Lit)