



Sources: Bing Images

**Consumer rights being violated? Fret not, here's what you should do next!**

### Consumer Protection Act 1999 and the Consumer Tribunal

In Malaysia, the rights of consumers are well governed under the law. The enactment of the Consumer Protection Act 1999 (“CPA”) which came into force on 15 November 1999 was enacted to provide greater protection for consumers, pursuant to which the Tribunal for Consumer Claims (“Tribunal”) was established under Section 85 of the CPA. The Tribunal was formed to hear and determine claims filed by consumers. The primary objective of the Tribunal is to provide an alternative forum for consumers to file claims in an easier, inexpensive and faster manner as compared to civil court claims.<sup>1</sup> Now with the Tribunal, consumers can seek for redress against unscrupulous and unethical traders and suppliers of goods.

### Who is considered a consumer?

Under the CPA, a consumer is an individual who acquires or uses goods or services for his personal, domestic or household use<sup>2</sup>. Those who acquire goods and services for their businesses do not fall within the definition of “consumer” pursuant to the CPA.

### What are the types of claims that may be filed in the Tribunal?

Examples of claims that may be filed to the Tribunal by consumers are:

- misleading or deceptive conduct relating to the goods or services;
- false or misleading representations in relation to the goods or services;
- misleading picture of the price on which goods and services are available;
- offer of any gift, prize or other free item with no intention to provide it;
- acceptance of payment for goods and services with no intention to supply them or intended to supply the goods and services which are different from the goods and services with respect to the payment received; and
- supply or offer to or advertisement for supply of any goods and services which do not comply with the safety standards specified in it.<sup>3</sup>

*Note: the list above is not exhaustive, for more information, kindly refer to this link: [Types of Claims That Can Be Filed In The Tribunals](#)*

### Limitation of Tribunal's Jurisdiction?

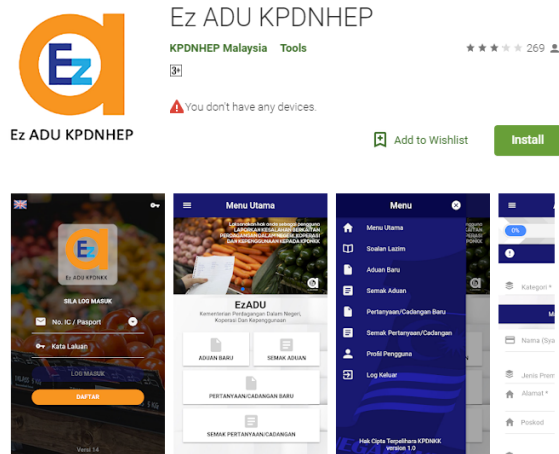
As for the jurisdiction limitation, the Tribunal can only hear claims that fall below RM 25,000.00<sup>4</sup> which claims shall be made within 3 years of the dispute<sup>5</sup>. Section 99 of the CPA further provides that the following claims do not fall within the ambit of the Tribunal's jurisdiction:

- claims arising from personal injury or death;

- claims for the recovery of land or any estate or interest relating to land;
- disputes over title to any land or any estate or any interest relating to land;
- where any other Tribunal has been established under any other written law to hear and determine claims that are under the jurisdiction of that other Tribunal;
- franchise; and
- claims which relates to dispute concerning:
  - i. the entitlement of any person under a will or settlement or on any intestacy;
  - ii. good will;
  - iii. any chose in action; or
  - iv. any trade secret or other intellectual property.

### How to file a claim in the Tribunal?

To lodge a claim with the Tribunal, you will have to obtain Form 1 from any Tribunal branches or download it from the e-Tribunal portal. A minimal filing fee of RM5.00 will be charged for filing Form 1.<sup>6</sup> Kindly refer to this link here for [Claim Forms \(Form 1, 2, 3 and 12\)](#). After obtaining Form 1 and filing up the details, you may file it at the Consumer Tribunal's counter at State Offices throughout Malaysia or file it online at their official website.



Sources: Google Playstore

Alternatively, you may also get easy access to lodge a complaint by downloading the Ez ADU phone application. Ez ADU is a mobile smartphone application that has been developed under the initiative of the Malaysian Ministry of Domestic Trade, Cooperatives and Consumerism (KPDNHEP) to empower and allow consumers to lodge and manage their complaints directly to the ministry so that proper action may be taken. By using this application, consumers can lodge a complaint by using the following steps:

- Fill in complaint details and report;
- Send images or photos as evidence; and
- Geotag the complaint to assist KPDNHEP with the investigation.

This phone application allows consumers to check on the status of their complaints and read the investigation report prepared pursuant to their claims. KPDNHEP hopes that by launching this application, fair domestic trade can be ensured while the rights of consumers are protected.<sup>7</sup>

You may refer to this link for the procedures that follows after you file your Form 1: [Procedures for Filing and Registration](#)

**Awards of Tribunal**

As for awards, the Tribunal shall make its award within 60 days from the first day of the hearing before the Tribunal, and may grant the following awards:

- that a party to the proceedings make payment of the claim declared by the Tribunal to the other party;
- that the price or other consideration paid or supplied by the consumer or any other person be refunded to the consumer;
- that goods be supplied or re-supplied;
- that a party comply with the guarantee;
- that money be awarded to compensate for any loss or damage suffered by the consumer;
- that the contract be varied or set aside, wholly or in part;
- that costs (not exceeding RM200.00) to or against any part be paid;
- that interest is paid on any sum or monetary award at a rate not exceeding eight per centum per annum; or
- that the claim is dismissed<sup>8</sup>.

Any agreed settlement and/or decision made by the Tribunal is final and binding. Any person who fails to comply with the award made by the Tribunal commits an offence and shall on conviction be liable to a fine not exceeding RM5,000.00 or to imprisonment for a term not exceeding 2 years or to both.<sup>9</sup>

<sup>1</sup> <https://tribunal.kpdnkk.gov.my/portal/index.php/en/>

<sup>2</sup> Consumers Protection Act 1999, Interpretation Provision

<sup>3</sup> <https://www.kpdnhep.gov.my/background-of-the-tribunal/?lang=en>

<sup>4</sup> Consumers Protection Act 1999, Section 100

<sup>5</sup> Consumers Protection Act 1999, Section 99

<sup>6</sup> <https://www.kpdnhep.gov.my/background-of-the-tribunal/?lang=en>

<sup>7</sup> <https://play.google.com/store/apps/details?id=com.kpdnkk.ezaduforandroid&hl=en>

<sup>8</sup> Consumers Protection Act 1999, Section 112

<sup>9</sup> Consumers Protection Act 1999, Section 117

*\*All information in this Newsletter is correct as at 30 June 2019 unless otherwise stated.*

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