The National Green Tribunal Act, 2010

Act 19 of 2010. 39 sections. Bare Act with the official footnotes.

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Every section online, with the old and new law side by side and exam questions:
https://www.lawmaker.in/bare-acts/national-green-tribunal-act-2010

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[2nd June, 2010.]

An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

AND WHEREAS India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment;

AND WHEREAS decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution;

AND WHEREAS it is considered expedient to implement the decisions taken at the aforesaid conferences and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

Section 1. Short title and commencement

(1) This Act may be called the National Green Tribunal Act, 2010.

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

Section 2. Definitions

(1) In this Act, unless the context otherwise requires,-

(a) "accident" means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance or equipment, or plant, or vehicle resulting in continuous or intermittent or repeated exposure

to death, of, or, injury to, any person or damage to any property or environment but does not include an accident by reason only of war or civil disturbance;

(b) "Chairperson" means the Chairperson of the National Green Tribunal;

(c) "environment" includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(d) "Expert Member" means a member of the Tribunal who, is appointed as such, and holds qualifications specified in sub-section (2) of section 5, and, is not a Judicial Member;

(e) "handling", in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

1. 18th October, 2010, vide Notifn. No. S.O 2569(E), dated 18th October, 2010, see Gazette of India, Extraordinary, Part II, sec.

3(ii).

(f) "hazardous substance" means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986 (29 of 1986), and exceeding such quantity as specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991 (6 of 1991);

(g) "injury" includes permanent, partial or total disablement or sickness resulting out of an accident;

(h) "Judicial Member" means a member of the Tribunal who is qualified to be appointed as such under sub-section (1) of section 5 and includes the Chairperson;

(i) "notification" means a notification published in the Official Gazette;

(j) "person" includes-

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) trustee of a trust,

(vii) a local authority, and

(viii) every artificial juridical person, not falling within any of the preceding sub-clauses;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Schedule" means Schedules I, II and III appended to this Act;

(m) "substantial question relating to environment" shall include an instance where,-

(i) there is a direct violation of a specific statutory environmental obligation by a person by which,-

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

(n) "Tribunal" means the National Green Tribunal established under section 3;

(o) "workman" has the meaning assigned to it in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) The words and expressions used in this Act but not defined herein and defined in the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977), the Forest (Conservation) Act, 1980 (69 of 1980), the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), the Environment (Protection) Act, 1986 (29 of 1986), the Public Liability Insurance Act, 1991 (6 of 1991) and the Biological Diversity Act, 2002 (18 of 2003) and other Acts relating to environment shall have the meaning, respectively, assigned to them in those Acts.

CHAPTER II ESTABLISHMENT OF THE TRIBUNAL

Section 3. Establishment of Tribunal

The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

1. 18th October, 2010, vide Notifn. No. S.O 2570(E), dated 18th October, 2010, see Gazette of India, Extraordinary, Part II, sec.

3(ii).

Section 4. Composition of Tribunal

(1) The Tribunal shall consist of-

(a) a full time Chairperson;

(b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;

(c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.

(2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal including-

(a) the rules as to the persons who shall be entitled to appear before the Tribunal;

(b) the rules as to the procedure for hearing applications and appeals and other matters [including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the applications and appeals;

(c) the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals:

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.

Section 5. Qualifications for appointment of Chairperson, Judicial Member and Expert Member

(1) A person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court:

Provided that a person who is or has been a Judge of the High Court shall also be qualified to be appointed as a Judicial Member.

(2) A person shall not be qualified for appointment as an Expert Member, unless he,-

(a) has a degree in Master of Science (in physical sciences or life sciences) with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management, biological diversity management and forest conservation) in a reputed National level institution; or

(b) has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.

(3) The Chairperson, Judicial Member and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert Members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

Section 6. Appointment of Chairperson, Judicial Member and Expert Member

(1) Subject to the provisions of section 5, the Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government.

(2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

Section 7. Term of office and other conditions of service of Chairperson, Judicial Member and Expert Member

The Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment:

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of seventy years:

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that no Expert Member shall hold office after he has attained the age of sixty-five years.

Section 8. Resignation

The Chairperson, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

Section 9. Salaries, allowances and other terms and conditions of service

The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall be varied to their disadvantage after their appointment.

Section 10. Removal and suspension of Chairperson, Judicial Member and Expert Member

(1) The Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson or Judicial Member of the Tribunal, who,-

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by the Judge of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

(5) The Expert Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section (1) and in accordance with the procedure as may be notified by the Central Government:

Provided that the Expert Member shall not be removed unless he has been given an opportunity of being heard in the matter.

Section 10A. Qualifications, terms and conditions of service of Chairperson, Judicial Member and Expert Member

[Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson, Judicial Member and Expert Member of the Tribunal appointed after the commencement of [the Tribunals Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act]:

Provided that the Chairperson, Judicial Member and Expert Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

Section 11. To act as Chairperson of Tribunal or to discharge his functions in certain circumstances

In the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal, by reason of his death, resignation or otherwise, such Judicial Member of the Tribunal as the Central Government may, by notification, authorise in this behalf, shall act as the Chairperson until the date on which a new Chairperson is appointed in accordance with the provisions of this Act.

Section 12. Staff of Tribunal

(1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions.

(2) The recruitment of the officers and other employees of the Tribunal shall be made by the Chairperson in such manner as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(4) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

Section 13. Financial and administrative powers of Chairperson

The Chairperson of the Tribunal shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:

Provided that the Chairperson may delegate such of his financial and administrative powers, as he may think fit, to any Judicial Member or Expert Member or officer of the Tribunal subject to the condition that the Member or such officer, while exercising such delegated power, continues to act under the direction, control and supervision of the Chairperson.

CHAPTER III JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL provisions of the section 184 of that Act" (w.e.f. 4-4-2021)

Section 14. Tribunal to settle disputes

(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

Section 15. Relief, compensation and restitution

(1) The Tribunal may, by an order, provide,-

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas,

as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

Section 16. Tribunal to have appellate jurisdiction

Any person aggrieved by,-

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977);

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980 (69 of 1980);

(f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986 (29 of 1986);

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986 (29 of 1986);

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002 (18 of 2003),

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

Section 17. Liability to pay relief or compensation in certain cases

(1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.

(2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.

(3) The Tribunal shall, in case of an accident, apply the principle of no fault.

Section 18. Application or appeal to Tribunal

(1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.

(2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by-

(a) the person, who has sustained the injury; or

(b) the owner of the property to which the damage has been caused; or

(c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or

(d) any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or

(e) any person aggrieved, including any representative body or organisation; or

(f) the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 (29 of 1986) or any other law for the time being in force:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application:

Provided further that the person, the owner, the legal representative, agent, representative body or organisation shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organisation have preferred an appeal under section 16.

(3) The application, or as the case may be, the appeal filed before the Tribunal under this Act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of filing of the application, or as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

Section 19. Procedure and powers of Tribunal

(1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872 (1 of 1872).

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding it ex parte;

(h) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(k) any other matter which may be prescribed.

(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Section 20. Tribunal to apply certain principles

The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

Section 21. Decision to be taken by majority

The decision of the Tribunal by majority of Members shall be binding:

Provided that if there is a difference of opinion among the Members hearing an application or appeal, and the opinion is equally divided, the Chairperson shall hear (if he has not heard earlier such application or appeal) such application or appeal and decide:

Provided further that where the Chairperson himself has heard such application or appeal along with other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally devided, he shall refer the matter to other Members of the Tribunal who shall hear such application or appeal and decide.

Section 22. Appeal to Supreme Court

Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

Section 23. Cost

(1) While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.

(2) Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or in part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.

Section 24. Deposit of amount payable for damage to environment

(1) Where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 (6 of 1991) for being credited to the Environmental Relief Fund established under that section.

(2) The amount of compensation or relief credited to the Environmental Relief Fund under sub-section (1), may, notwithstanding anything contained in the Public Liability Insurance Act, 1991 (6 of 1991) be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed.

Section 25. Execution of award or order or decision of Tribunal

(1) An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.

(3) Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal, fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under this Act or any other law for the time being in force, shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

CHAPTER IV PENALTY

Section 26. Penalty for failure to comply with orders of Tribunal

(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

Section 27. Offences by companies

(1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

Section 28. Offences by Government Department

(1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall

also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER V MISCELLANEOUS

Section 29. Bar of jurisdiction

(1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court.

Section 30. Cognizance of offences

(1) No court shall take cognizance of any offence under this Act except on a complaint made by-

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in such manner as may be prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

(2) No court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Section 31. Members and staff of Tribunal to be public servants

The Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Section 32. Protection of action taken in good faith

(1) No suit or other legal proceeding shall lie against the employees of the Central Government or a State Government or any statutory authority, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the Chairperson or, Judicial Member or Expert Member of the Tribunal or any other person authorised by the Chairperson or Judicial Member or the Expert Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Section 33. Act to have overriding effect

The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Section 34. Power to amend Schedule I

(1) The Central Government may, by notification, amend the Schedule I by including therein any other Act, enacted by Parliament having regard to the objective of environmental protection and conservation of natural resources, or omitting therefrom any Act already specified therein and on the date of publication of such notification, such Act shall be deemed to be included in or, as the case may be, omitted from the Schedule I.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Section 35. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) rules as to the persons who shall be entitled to appear before the Tribunal under clause (a) of sub-section (4) of section 4;

(b) the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals under clause (b) of sub-section (4) of section 4;

(c) the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals under clause (c) of sub-section (4) of section 4;

(d) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;

(e) the selection committee and the manner of appointment of the Judicial Member and Expert Member of the Tribunal under sub-section (3) of section 6;

(f) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9;

(g) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 10;

(h) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (4) of that section;

(i) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 13;

(j) the form of application or appeal, the particulars which it shall contain and the documents to be accompanied by and the fees payable under sub-section (1) of section 18;

(k) any such matter in respect of which the Tribunal shall have powers of a civil court under clause (k) of sub-section (4) of section 19;

(l) the manner and the purposes for which the amount of compensation or relief credited to the Environment Relief Fund shall be utilised under sub-section (2) of section 24;

(m) the manner of giving notice to make a complaint under clause (b) of sub-section (1) of section 30;

(n) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

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

Section 36. Amendment of certain enactments

The enactments specified in the Schedule III to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Tribunal.

Section 37. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Section 38. Repeal and savings

(1) The National Environment Tribunal Act, 1995 (27 of 1995) and the National Environment Appellate Authority Act, 1997 (22 of 1997) are hereby repealed (hereinafter referred to as the repealed Act).

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

(3) The National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 (22 of 1997), shall, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, stand dissolved.

(4) On the dissolution of the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 (22 of 1997), the persons appointed as the Chairperson, Vice-chairperson and every other person appointed as Member of the said National Environment Appellate Authority and holding office as such immediately before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall vacate their respective offices and no such Chairperson, Vice-chairperson and every other person appointed as Member shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

(5) All cases pending before the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 (22 of 1997) on or before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall, on such establishment, stand transferred to the said National Green Tribunal and the National Green Tribunal shall dispose of such cases as if they were cases filed under that Act.

(6) The officers or other employees who have been, immediately before the dissolution of the National Environment Appellate Authority appointed on deputation basis to the National Environment Appellate Authority, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be.

(7) On the dissolution of the National Environment Appellate Authority, the officers and other employees appointed on contract basis under the National Environment Appellate Authority and holding office as such immediately before such dissolution, shall vacate their respective offices and such officers and other employees shall be entitled to claim compensation for three months' pay and allowances or pay and allowances for the remaining period of service, whichever is less, for the premature termination of term of their office under their contract of service.

(8) The mention of the particular matters referred to in sub-sections (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal.

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

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SCHEDULE III (official file, page 20)

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