



## Ministry of Environment and Forests

GOVERNMENT OF INDIA

### PROPOSED AMENDMENTS TO THE NATIONAL GREEN TRIBUNAL (NGT) BILL

The NGT Bill was considered by the Department Related Parliamentary Standing Committee on Science and Technology, Environment and Forests following which they made certain recommendations in their report dated 24<sup>th</sup> November 2009. A summary of the recommendations made and proposed to be accepted by the Ministry of Environment and Forests is as follows:

Section	Original Bill	Proposed Amendment
Section 1(2) <b>All of Act to Come into Force Simultaneously</b>	In the original Bill, this section vested the Central Government with discretion to allow for different dates for different sections to come into force.	The Amendments now state that the Act shall come into force <b>on such date as the Central Government may, by notification in the Official Gazette</b> , appoint. This shall apply to the Act in toto. In other words, the entire Act will come into force at once and not separately in pieces.
Section 4(1)(b) <b>Number of Members (Judicial/Expert) Specified</b>	The original Bill was silent on the number of Judicial/Expert members to be appointed to the Tribunal allowing the Central Government the flexibility to decide (" <i>such number of full time Judicial/Expert members as the Central Government may, from time to time notify</i> ")	The Amendments rectify the same stating that <b>the minimum number of full time Judicial Members and Expert Members shall be not less than ten but subject to a maximum of twenty each.</b>
Section 4(3) <b>Place of Sitting</b>	The original Bill did not specify the territorial jurisdiction of the Tribunal stating only that the Tribunal " <i>shall sit at such place or places, as the Central Government may, by notification, specify</i> ".	The Amendments add to the clause with the following text The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, <b>and the territorial jurisdiction falling under each such place.</b>
Section 4(4) <b>Expansion of Rules to include Circuit Procedure, transfer of cases etc.</b>	In the original Bill, this section elaborated on the Rule making power of the Central Government, in consultation with the Chairperson of the Tribunal.	In the amendments the rule making power has been further defined to include the following: (i) The procedure for hearing applications and appeals and other matters <b>including the circuit procedure, for hearing at a place other than</b>



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		<p><b>the ordinary place of its sitting</b> falling within the jurisdiction.</p> <p>(ii) The minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals. The number of Expert Members hearing an application or appeal, shall be equal to the number of Judicial Members hearing such application or appeal.</p> <p>(iii) Rules relating to <b>transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to the other place of sitting.</b></p>
Section 5(4) <b>Post Tenure Debarment</b>	The original Bill provided that no member, judicial or expert, could take employment with the management or administration of any company or undertake such activity for any person, who had been a party to a dispute before the Tribunal, <i>for a period of one year.</i>	The Amendments increase the period for which a member, Judicial or Expert, cannot take up employment with any organisation that has been a party to a suit before the Tribunal <b>from a period of one year to a period of two years.</b>
Section 18 (2)(e) <b>Expansion of Definition of Person Aggrieved</b>	The original Bill, in this clause, provided that any representative body or organisation functioning in the field of environment could being an application for relief. It was silent on the aspect of whether <i>any person</i> affected (other than the person suffering the injury) could approach the Tribunal.	The Amendments clarify the original position by stating that <b>any person aggrieved</b> , including any representative body or organization can file an application for the grant of relief or compensation and for the settlement of disputes.
Section 19A <b>Principles to be Applied</b>	New Section	It has been made mandatory for the Tribunal to apply the <b>principles of sustainable development and the precautionary</b>



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		<b>principle along with the polluter pays principle</b> while passing any order, decision or award.
Section 20 <b>Power of Chairperson/Other Member to hear in case of a deadlock</b>	The original Bill provided that the decision taken by a majority of the members shall be final and binding	The Amendments expand the section by inserting a proviso to the effect that in case there is a difference of opinion between the members hearing the application and the opinion is equally divided, then the Chairperson (if he has not been part of the hearing) will hear the matter on appeal and decide. If the Chairperson has been a part of this bench where the opinion is so equally divided then he shall refer the matter to another member of the Tribunal who shall hear the application and decide.
Section 21 <b>Appeal to Supreme Court</b>	The original Bill made any decision taken/award or order passed by the Tribunal Final and Binding on the parties	The Amendments provide for an appeal by any person aggrieved by the order/award passed <b>within 90 days</b> from the date of communication of the order/award <b>on one or more of the grounds specified under section 100</b> of the Code of Civil Procedure 1908. The proviso to the section provides that the Supreme Court may allow an appeal even after 90 days if it is satisfied that sufficient cause exists.