



# TAMIL NADU GOVERNMENT GAZETTE

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## Part IV—Section 4

### CENTRAL ACTS AND ORDINANCES

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*New Delhi, 2nd June, 2010*

The following Act of Parliament received the assent of the President on the 2nd June, 2010 and is hereby published for general information:—

THE NATIONAL GREEN TRIBUNAL ACT, 2010

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## THE NATIONAL GREEN TRIBUNAL ACT, 2010

## ACT No. 19 OF 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

Short title and commencement.

1. (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.

Definitions.

2. (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;

29 of 1986. (f) "hazardous substance" means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 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) "Persons" 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;

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

6 of 1974.  
36 of 1977.  
69 of 1980.  
14 of 1981.  
29 of 1986.  
6 of 1991.  
18 of 2003.

(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, the Water (Prevention and Control of Pollution) Cess Act, 1977, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability Insurance Act, 1991 and the Biological Diversity Act, 2002 and other Acts relating to environment shall have the meaning, respectively, assigned to them in those Acts.

## CHAPTER II

## ESTABLISHMENT OF THE TRIBUNAL.

Establishment  
of Tribunal.

3. 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.

Composition  
of Tribunal.

4. (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 anyone 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.

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

5. (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

**6.** (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.

Appointment of Chairperson, Judicial Member and Expert Member.

(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.

**7.** 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:

Term of office and other condition of service of Chairperson, Judicial Member and Expert Member.

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson of 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.

**8.** 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.

Resignation.

**9.** 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:

Salaries, allowances and other terms and conditions of service.

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.

Removal and suspension of chairperson, Judicial Member and expert Member.

**10.** (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.

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

**11.** 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.

Staff of Tribunal.

**12.** (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 function 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.

Financial and administrative powers of Chairperson.

**13.** 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.

**14.** (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.

Tribunal to settle disputes.

(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 filling the application within the said period, allow it to be filed within a further period not exceeding sixty days.

**15.** (1) The Tribunal may, by an order, provide,—

Relief, compensation and restitution.

(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.

**16.** Any person aggrieved by,—

Tribunal to have appellate jurisdiction.

(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.

Liability to pay relief or compensation in certain cases.

**17.** (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.

Application or appeal to Tribunal.

**18.** (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 or any other law for the time being in force:

29 of 1986

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.

5 of 1908

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

Procedure and powers of Tribunal.

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

1 of 1872

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

5 of 1908

(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, 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;

1 of 1872.

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 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 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.

45 of 1860.  
2 of 1974.

Tribunal to apply certain principles.

**20.** 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.

Decision to be taken by majority.

**21.** 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 alongwith other Members of the Tribunal and if there is a difference of opinion among the Members in such cases and the opinion is equally divided, he shall refer the matter to other Members of the Tribunal who shall hear such application or appeal and decide.

Appeal to Supreme Court.

**22.** 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 anyone 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.

Cost.

**23.** (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.

Deposit of amount payable for damage to environment.

**24.** (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 7 A of the Public Liability Insurance Act, 1991 for being credited to the Environmental Relief Fund established under that section.

6 of 1991.

(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, be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed.

6 of 1991.

Execution of award or order or decision of Tribunal.

**25.** (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

**26.** (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:

Penalty for failure to comply with orders of Tribunal.

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 every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

20 of 1974.

**27.** (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:

Offences by companies.

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 offences 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.

**28.** (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:

Offences by Government Department.

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

Bar of  
Jurisdiction.

**29.** (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.

Cognizance of  
offences.

**30.** (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.

Members and  
staff of  
Tribunal to be  
public  
servants.

**31.** 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.

Protection of  
action taken  
in good faith.

**32.** (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.

Act to have  
overriding  
effect.

**33.** 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.

Powers to  
amend  
Schedule I.

**34.** (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 there from 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.



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

Power to  
make rules.

(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.

**36.** 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.

Amendment of  
certain  
enactments.

Power to  
remove  
difficulties.

**37.** (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.

Repeal and  
savings.

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

(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, shall, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, stand dissolved. 22 of 1997.

(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, 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. 22 of 1997

(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 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. 22 Of 1997.

(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 with regard to the effect of repeal. 10 of 1897.



## SCHEDULE I

*[See sections 14(1), 15(1), 17(1)(a), 17(2), 19(4) (j) and 34(1)]*

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002.

## SCHEDULE II

[See sections 15(4) and 17(1)]

## HEADS UNDER WHICH COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED

- (a) Death;
- (b) Permanent, temporary, total or partial disability or other injury or sickness;
- (c) Loss of wages due to total or partial disability or permanent or temporary disability;
- (d) Medical expenses incurred for treatment of injuries or sickness;
- (e) Damages to private property;
- (f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;
- (g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;
- (h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;
- (i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;
- (j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;
- (k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;
- (l) Loss and destruction of any property other than private property;
- (m) Loss of business or employment or both;
- (n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

## SCHEDULE III

(See section 36)

## AMENDMENT TO CERTAIN ENACTMENTS

## PART I

AMENDMENT TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT,  
1974

(6 OF 1974)

After section 33A, the following section shall be inserted, namely :—

Insertion of  
new section  
33B.

“33B. Any person aggrieved by,—

Appeal to  
National  
Green  
Tribunal.

(a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or

(b) an order passed by the State Government under section 29, on or after the commencement of the National Green Tribunal Act, 2010; or

(c) directions issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2010,

may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

## PART II

AMENDMENT TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT,  
1977

(36 OF 1977)

1. In section 13, in sub-section (4), for the words “shall be final”, the words, figures and letters “shall, if no appeal has been filed under section 13A, be final” shall be substituted.

Amendment  
of section  
13.

2. After section 13, the following section shall be inserted, namely :—

Insertion of  
new section  
13A.

“13A. Any person aggrieved, by an order or decision of the appellate authority made under section 13, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

Appeal to  
National  
Green  
Tribunal.

## PART III

## AMENDMENT TO THE FOREST (CONSERVATION) ACT, 1980

(69 OF 1980)

After section 2, the following section shall be inserted, namely:—

Insertion of  
new section  
2A.

“2A. Any person aggrieved, by an order or decision of the State Government or other authority made under section 2, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

Appeal to  
National  
Green  
Tribunal.

## PART IV

## AMENDMENT TO THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

(14 OF 1981)

Insertion of  
new section  
31B.

After section 31A, the following section shall be inserted, namely:—

Appeal to  
National  
Green  
Tribunal.

“31B. Any person aggrieved by an order or decision of the Appellate Authority under section 31, made on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

## PART V

## AMENDMENT TO THE ENVIRONMENT (PROTECTION) ACT, 1986

(29 OF 1986)

Insertion of  
new section  
5A.

After section 5, the following section shall be inserted, namely:—

Appeal to  
National  
Green  
Tribunal.

“5A. Any person aggrieved by any direction issued under section 5, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”.

## PART VI

## AMMENDMENT TO THE BIOLOGICAL DIVERSITY ACT, 2002

(18 OF 2003)

Amendment of  
section 52.

1. In section 52, after the proviso, the following provisos shall be inserted, namely:—

“Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010:

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010, shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act, 2010.”.

Insertion of  
new section  
52A.

2. After section 52, the following section shall be inserted, namely:—

Appeal to  
National  
Green  
Tribunal.

“52A. Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of the Act.”.

V.K. BHASIN,  
*Secretary to the Government of India.*

(Re-published by order of the Governor)

R. KATHIRVEL,  
*Additional Secretary to Government,  
Law Department.*

*New Delhi, 16th August, 2010*

The following Act of Parliament received the assent of the President on the 16th August, 2010 and is hereby published for general information:—

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS  
(AMENDMENT) ACT 2010

**ACT No. 20 OF 2010**

BILL

*An Act further to Amend the National Commission for Minority Educational Institutions Act, 2004*

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

1. (1) This Act may be called the National Commission for Minority Educational Institutions (Amendment) Act, 2010

Short title and commencement.

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

20 of 2005.

2. In section 2 of the National Commission for Minority Educational Institutions Act, 2004 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) clause (b) shall be omitted;

(ii) for clause (g), the following clause shall be substituted, namely:—

‘(g) “Minority Educational Institution” means a college or an educational institution established and administered by a minority or minorities;’..

3. In section 3 of the principal Act, in sub-section (2), for the words “two members”, the words “three members” shall be substituted.

Amendment of section 3.

4. In section 10 of the principal Act, for sub-section (1) the following sub-section shall be substituted, namely:—

Amendment of section 10.

“(1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose.”.

5. In section 12B of the principal Act, in sub-section (4), the words “and in consultation with the State Government” shall be omitted.

Amendment of section 12B.

V.K. BHASIN,  
*Secretary to the Government of India.*

(Re-published by order of the Governor)

R. KATHIRVEL,  
*Additional Secretary to Government,  
Law Department.*

*New Delhi, 18th August 2010.*

The following Act of Parliament received the assent of the President on the 17th August, 2010 and is hereby published for general information:—

THE APPROPRIATION (No. 4) ACT, 2010.

**ACT No. 21 of 2010.**

*An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2010-11.*

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

Short title.

1. This Act may be called the Appropriation (No. 4) Act, 2010.

Issue of Rs. 68294, 30,00,000 out of the Consolidated Fund of India for the financial year 2010-11.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of sixty-eight thousand two hundred ninety-four crores and thirty lakh rupees only towards defraying the several charges which will come in the course of payment during the financial year 2010-11 in respect of the services specified in column 2 of the schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

the commencement of this Act and a clinical establishment which comes into existence after commencement of this Act, shall apply for permanent registration within

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and Purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
(1)	(2)	(3)		
		Rs.	Rs.	Rs.
1	Department of Agriculture and Co-operation .. Revenue	2212,01,00,000	..	2212,01,00,000
2	Department of Agriculture Research and Education .. Revenue	1074,00,00,000	..	1074,00,00,000
3	Department of Animal Husbandry, Dairying and Fisheries .. Revenue	1,00,000	..	1,00,000
4	Atomic Energy .. Capital	80,01 ,00,000	..	80,01 ,00,000
6	Department of Chemicals and Petrochemicals .. Revenue	1248,00,00,000	..	1248,00,00,000
7	Department of Fertilisers .. Revenue	1,00,000	..	1,00,000
8	Department of Pharmaceuticals .. Revenue	1,00,000	..	1,00,000
9	Ministry of Civil Aviation .. Revenue	19,01,00,000	..	19,01,00,000
11	Department of Commerce .. Revenue	658,51,00,000	..	658,51,00,000
12	Department of Industrial Policy and Promotion .. Revenue	4,00,000	2,00,000	6,00,000

## THE SCHEDULE--Cont.

(See sections 2 and 3)

(1)	(2)	(3)		
		Rs.	Rs.	Rs.
13	Department of Posts .. Revenue	1,00,000	46,00,000	47,00,000
	.. Capital	145,00,00,000	8,00,000	145,08,00,000
14	Department of Telecommunications .. Revenue	30,56,00,000	..	30,56,00,000
15	Department of Information Technology .. Revenue	1012,00,00,000	..	1012,00,00,000
16	Department of Consumer Affairs .. Revenue	6,00,000	..	6,00,000
17	Department of Food and Public Distribution .. Revenue	800,00,00,000	1,00,000	800,01,00,000
18	Ministry of Corporate Affairs .. Capital	49,36,00,000	..	49,36,00,000
19	Ministry of Culture .. Revenue	83,21,00,000	..	83,21,00,000
20	Ministry of Defence .. Revenue	40,01,00,000	..	40,01,00,000
	.. Capital	..	5,00,000	5,00,000
22	Defence Services-Army .. Revenue	1500,00,00,000	..	1500,00,00,000
23	Defence Services-Navy .. Revenue	..	3,20,00,000	3,20,00,000
25	Defence-Ordnance Factories .. Revenue	..	1,15,00,000	1,15,00,000
27	Capital Outlay on Defence Services .. Capital	813,01,00,000	20,25,00,000	833,26,00,000
29	Ministry of Earth Sciences .. Revenue	2,00,000	..	2,00,000
30	Ministry of Environment and Forests .. Revenue	1,00,000	..	1,00,000
31	Ministry of External Affairs .. Revenue	6,00,00,000	..	6,00,00,000
32	Department of Economic Affairs .. Revenue	24,52,00,000	..	24,52,00,000
	.. Capital	11327,15,00,000	..	11327,15,00,000
33	Department of Financial Services .. Revenue	110,00,00,000	..	110,00,00,000
	.. Capital	2320,12,00,000	..	2320,12,00,000
	<i>CHARGED.-Interest Payments</i> .. Revenue	..	1,00,000	1,00,000
35	Transfers to State and Union territory Governments .. Revenue	4379,01,00,000	..	4379,01,00,000
	.. Capital	..	2000,00,00,000	2000,00,00,000
	<i>CHARGED.-Repayment of Debt</i> .. Capital	..	3894,59,00,000	3894,59,00,000
41	Department of Revenue ..... .. Revenue	1000,01,00,000	..	1000,01,00,000
	.. Capital	27,00,00,000	..	27,00,00,000
46	Department of Health and Family Welfare .... .. Revenue	100,01,00,000	..	100,01,00,000
	.. Capital	1,00,000	..	1,00,000
49	Department of Heavy Industry .. Revenue	12,27,00,000	..	12,27,00,000
	.. Capital	103,99,00,000	..	103,99,00,000
51	Ministry of Home Affairs .. Revenue	1027,26,00,000	..	1027,26,00,000
	.. Capital	2,00,000	..	2,00,000

## THE SCHEDULE--Cont.

(See sections 2 and 3)

(1)	(2)	(3)		
		Rs.	Rs.	Rs.
52	Cabinet .. Revenue	20,00,00,000	..	20,00,00,000
	.. Capital	17,00,00,000	..	17,00,00,000
53	Police .. Revenue	1741,48,00,000	6,00,000	1741,54,00,000
	.. Capital	604,00,00,000	..	604,00,00,000
54	Other Expenditure of the Ministry of Home Affairs .. Revenue	3,00,000	..	3,00,000
	.. Capital	36,73,00,000	..	36,73,00,000
56	Ministry of Housing and Urban Poverty Alleviation .. Revenue	1,00,000	..	1,00,000
57	Department of School Education and Literacy .. Revenue	4000,00,00,000	..	4000,00,00,000
58	Department of Higher Education .. Revenue	2093,27,00,000	..	2093,27,00,000
59	Ministry of Information and Broadcasting .. Revenue	1,00,000	..	1,00,000
60	Ministry of Labour and Employment .. Revenue	186,00,00,000	..	186,00,00,000
62	Law and Justice .. Revenue	268,52,00,000	..	268,52,00,000
65	Ministry of Mines .. Revenue	..	14,00,000	14,00,000
71	Ministry of Personnel, Public Grievances and Pensions .. Revenue	..	4,00,00,000	4,00,00,000
72	Ministry of Petroleum and Natural Gas .. Revenue	14000,00,00,000	..	14000,00,00,000
73	Ministry of Planning .. Revenue	1,00,000	..	1,00,000
74	Ministry of Power .. Revenue	24,45,00,000	..	24,45,00,000
	.. Capital	710,65,00,000	..	710,65,00,000
81	Department of Rural Development .. Revenue	7337,50,00,000	..	7337,50,00,000
84	Department of Science and Technology .. Revenue	1,00,000	..	1,00,000
87	Ministry of Shipping .. Capital	1,00,000	..	1,00,000
88	Ministry of Social Justice and Empowerment.. .. Revenue	2,00,000	..	2,00,000
90	Ministry of Statistics and Programme Implementation .. Revenue	1,00,000	..	1,00,000
92	Ministry of Textiles .. Revenue	500,00,00,000	..	500,00,00,000
	.. Capital	12,50,00,000	..	12,50,00,000
93	Ministry of Tourism.. .. Revenue	1,00,000	..	1,00,000
94	Ministry of Tribal Affairs.. .. Revenue	2,00,000	1,00,000	3,00,000
95	Andaman and Nicobar Islands .. Revenue	1,00,000	..	1,00,000
96	Chandigarh.. .. Capital	1,00,000	..	1,00,000
100	Department of Urban Development .. Capital	300,00,00,000	..	300,00,00,000



## THE SCHEDULE--Cont.

(See sections 2 and 3)

(1)	(2)	(3)		
		Rs.	Rs.	Rs.
101	Public Works .. Revenue	37,00,000	..	37,00,000
	.. Capital	69,50,00,000	..	69,50,00,000
103	Ministry of Water Resources .. Revenue	30,02,00,000	..	30,02,00,000
104	Ministry of Women and Child Development .. Revenue	2,00,000	..	2,00,000
105	Ministry of Youth Affairs and Sports.. Revenue	22,45,,00,000	..	22,45,00,000
	..Capital	193,42,00,000	..	193,42,00,000
	Total.....	62370,27,00,000	5924,03,00,000	682,94,30,00,000

V.K. BHASIN,  
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,  
Additional Secretary to Government,  
Law Department.

New Delhi, 18th August, 2010.

The following Act of Parliament received the assent of the President on the 17th August, 2010 and is hereby published for general information:—

THE JHARKHAND APPROPRIATION ACT, 2010.

**ACT No. 22 OF 2010.**

*An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Jharkhand for the services of the financial year 2010-2011.*

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

Short title.

1. This Act may be called the Jharkhand Appropriation Act, 2010.

Issue of Rs.  
1242,71,25,627  
out of the  
Consolidated  
Fund of the  
State of  
Jharkhand  
for the  
financial year  
2010-11.

2. From and out of the Consolidated Fund of State of Jharkhand there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand two hundred forty-two crores and seventy-one lakhs, twenty-five thousand and six hundred twenty-seven rupees towards defraying the several charges which will come in the course of payment during the financial year 2010-2011 in respect of the services specified in column 2 of the schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of State of Jharkhand by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(see sections 2 and 3)

No. of Vote Appro- priation	Services and Purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
(1)	(2)	(3)		
		Rs.	Rs.	Rs.
3	Building Construction Department .. Revenue	1,82,131	..	1,82,131
4	Cabinet Secretariat and Co-ordination Department .. Revenue	1,79,07,400	..	1,79,07,400
10	Energy Department .. Capital	20,00,00,000	..	20,00,00,000
12	Finance Department .. Revenue	2,90,00,000	..	2,90,00,000
13	Interest Payment .. Revenue	..	6,06,66,000	6,06,66,000
16	National Savings .. Revenue	3,00,000	..	3,00,000
17	Finance (Commercial Tax) Department .. Revenue	5,39,37,400	..	5,39,37,400
18	Food, Public Distribution and Consumer Affairs Department .. Revenue	1,19,723	..	1,19,723
19	Forest and Environment Department .. Revenue	18,93,00,000	..	18,93,00,000

THE SCHEDULE--Cont.  
(See sections 2 and 3)

(1)	(2)	(3)		
		Rs.	Rs.	Rs.
20	Health, Medical Education and Family Welfare Department .. Revenue	14,47,61,000	..	14,47,61,000
22	Home Department .. Revenue	1,72,41,075	..	1,72,41,075
23	Industries Department .. Revenue	5,30,36,000	..	5,30,36,000
24	Information and Public Relation Department .. Revenue	11,50,000	..	11,50,000
26	Labour, Employment and Training Department .. Revenue	22,05,298	..	22,05,298
27	Law Department .. Revenue	63,90,94,000	..	63,90,94,000
28	High Court of Jharkhand .. Revenue	..	66,66,600	66,66,600
33	Personnel and Administrative Reforms Department .. Revenue	2,46,35,000	..	2,46,35,000
35	Planning and Development Department .. Revenue	9,60,00,000	..	9,60,00,000
38	Registration Department .. Revenue	2,02,00,000	..	2,02,00,000
39	Disaster Management Department .. Revenue	264,46,80,000	..	264,46,80,000
40	Revenue and Land Reforms Department .. Revenue	20,00,000	..	20,00,000
41	Road Construction Department .. Revenue	60,00,00,000	..	60,00,00,000
42	Rural Development Department .. Revenue	176,49,46,000	..	176,49,46,000
	.. Capital	200,00,00,000	..	200,00,00,000
43	Science and Technology Department .. Revenue	34,62,00,000	..	34,62,00,000
44	Secondary, Primary and Public Education Department .. Revenue	298,60,50,000	..	298,60,50,000
47	Transport Department .. Revenue	10,00,000	..	10,00,000
48	Urban Development and Housing Department .. Revenue	42,43,90,000	..	42,43,90,000
51	Welfare Department .. Revenue	10,14,58,000	..	10,14,58,000
	TOTAL .....	<b>1235,97,93,027</b>	<b>6,73,32,600</b>	<b>1242,71,25,627</b>

V.K. BHASIN,  
Secretary to the Government of India.

(Re-published by order of the Governor)

R. KATHIRVEL,  
Additional Secretary to Government,  
Law Department.

*New Delhi, 19th August, 2010*

The following Act of Parliament received the assent of the President on the 18th August, 2010 and is hereby published for general information:—

THE CLINICAL ESTABLISHMENTS  
(REGISTRATION AND REGULATION) ACT, 2010

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55. Laying of rules.
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## THE SCHEDULE.

THE CLINICAL ESTABLISHMENTS (REGISTRATION AND  
REGULATION ACT, 2010

**ACT No. 23 OF 2010**

*An Act to provide for the registration and regulation of clinical establishments in the country and for matters connected therewith or incidental thereto.*

WHEREAS, it is considered expedient to provide for the registration and regulation of clinical establishments with a view to prescribe minimum standards of facilities and services which may be provided by them so that mandate of article 47 of the Constitution for improvement in public health may be achieved;

AND WHEREAS, Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS, in pursuance of clause (l) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Clinical Establishments (Registration and Regulation) Act, 2010.

(2) It applies, in the first instance, to the whole of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force at once in the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim and the Union territories, on such date as the Central Government may, by notification, appoint and in any other State which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory:

Provided that different dates may be appointed for different categories of clinical establishments and for different recognised systems of medicine.

2. In this Act, unless the context otherwise requires,—

- (a) “authority” means the district registering authority set-up under section 10;
- (b) “certificate” means certificate of registration issued under section 30;
- (c) “clinical establishment” means—

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or

(ii) a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not,

Short title,  
application  
and  
commence-  
ment.

Definitions.

and shall include a clinical establishment owned, controlled or managed by—

- (a) the Government or a department of the Government;
- (b) a trust, whether public or private;
- (c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government;
- (d) a local authority; and
- (e) a single doctor,

but does not include the clinical establishments owned, controlled or managed by the Armed Forces.

46 of 1950.  
45 of 1950.  
62 of 1957.

*Explanation.*—For the purpose of this clause “Armed Forces” means the forces constituted under the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957;

(d) “emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) of such a nature that the absence of immediate medical attention could reasonably be expected to result in—

- (i) placing the health of the individual or, with respect to a pregnant women, the health of the woman or her unborn child, in serious jeopardy; or
- (ii) serious impairment to bodily functions; or
- (iii) serious dysfunction of any organ or part of a body;

(e) “National Council” means the National Council for clinical establishments established under section 3;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(h) “recognised system of medicine” means Allopathy, Yoga, Naturopathy, Ayurveda, Homoeopathy, Siddha and Unani System of medicines or any other system of medicine as may be recognised by the Central Government;

(i) “register” means the register maintained by the authority, State Government and the Central Government under sections 37, 38 and 39 respectively of this Act containing the number of clinical establishments registered;

(j) “registration” means to register under section 11 and the expression registration or registered shall be construed accordingly;

(k) “rules” means rules made under this Act;

(l) “Schedule” ,means the Schedule appended to this Act;

(m) “standards” means the conditions that the Central Government may prescribe under section 12, for the registration of clinical establishments;

(n) “State Government”, in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution; and

(o) “to stabilise (with its grammatical variations and cognate expressions)” means, with respect to an emergency medical condition specified in clause (d), to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a clinical establishment.

## CHAPTER II

## THE NATIONAL COUNCIL FOR CLINICAL ESTABLISHMENTS

Establishment  
of National  
Council.

3. (1) With effect from such date as the Central Government may, by notification appoint in this behalf, there shall be established for the purposes of this Act, a Council to be called the National Council for clinical establishments.

(2) The National Council shall consist of—

(a) Director-General of Health Service, Ministry of Health and Family Welfare, *ex officio*, who shall be the Chairperson;

(b) four representatives out of which one each to be elected by the—

(i) Dental Council of India constituted under section 3 of the Dentists Act, 1948; 16 of 1948.

(ii) Medical Council of India constituted under section 3 of the Indian Medical Council Act, 1956; 102 of 1956

(iii) Nursing Council of India constituted under section 3 of the Indian Nursing Council Act, 1947; 48 of 1947

(iv) Pharmacy Council of India constituted under section 3 of the Pharmacy Act, 1948; 8 of 1948

(c) three representatives to be elected by the Central Council of Indian Medicine representing the Ayurveda, Siddha and Unani systems of medicine constituted under section 3 of the Indian Medicine Central Council Act, 1970; 48 of 1970

(d) one representative to be elected by the Central Council of Homoeopathy constituted under section 3 of the Homoeopathy Central Council Act, 1973; 59 of 1973

(e) one representative to be elected by the Central Council of the Indian Medical Association;

(f) one representative of Bureau of the Indian Standards constituted under section 3 of the Bureau of Indian Standards Act, 1986; 63 of 1986

(g) two representatives from the Zonal Council set-up under section 15 of the States Reorganisation Act, 1956; . 37 of 1956

(h) two representatives from the North-Eastern Council set-up under section 3 of the North-Eastern Council Act, 1971; . 84 of 1971

(i) one representative from the line of paramedical systems excluding systems that have been given representation. under clause (b);

(j) two-representatives from National Level Consumer Group to be nominated by the Central Government;

(k) one representative from the Associations of Indian Systems of Medicines relating to Ayurveda, Siddha and Unani to be nominated by the Central Government;

(l) the Secretary-General of the Quality Council of India, *ex officio*.

(3) The nominated members of the National Council shall hold office for three years but shall be eligible for re-nomination for maximum of one more term of three years.

(4) The elected members of the National Council shall hold office for three years, but shall be eligible for re-election:

Provided that the person nominated or elected, as the case may be, shall hold office for such period till he holds appointment of the office by virtue of which he was nominated or elected to the council.

(5) The members of the National Council shall be entitled for such allowances as may be prescribed by the Central Government.



(6) The National Council may, subject to the previous approval of the Central Government, make bye-laws fixing a quorum and regulating its own procedure and the conduct of all business to be transacted by it.

(7) The National Council shall meet at least once in three months.

(8) The National Council may constitute sub-committees and may appoint to such sub-committee, as it deems fit, persons, who are not members of the National Council, for such period, not exceeding two years, for the consideration of particular matters.

(9) The functions of the National Council may be exercised notwithstanding any vacancy therein.

(10) The Central Government shall appoint such person to be the Secretary of the National Council as the Central Government may prescribe, and may provide the National Council with such other secretarial and other staff as the Central Government considers necessary.

4. A person shall be disqualified for being appointed as a member of the National Council if he—

Disqualifications for appointment as member.

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Council as is likely to affect prejudicially the discharge by him of his functions as a member.

5. The National Council shall—

Functions of National Council.

(a) compile and publish a National Register of clinical establishments within two years from the date of the commencement of this Act;

(b) classify the clinical establishments into different categories;

(c) develop the minimum standards and their periodic review;

(d) determine within a period of two years from its establishment, the first set of standards for ensuring proper healthcare by the clinical establishments;

(e) collect the statistics in respect of clinical establishments;

(f) perform any other function determined by the Central Government from time to time.

6. The National Council may associate with itself any person or body whose assistance or advice it may desire in carrying out any of the provisions of this Act.

Power to seek advice or assistance.

7. The National Council shall follow a consultative process for determining the standards and for classification of clinical establishments in accordance with such procedure as may be prescribed.

National Council to follow consultative process.

## CHAPTER III

## REGISTRATION AND STANDARDS FOR CLINICAL ESTABLISHMENTS

State Council  
of clinical  
establishments.

8. (1) Every State Government shall by notification constitute a State Council for clinical establishments or the Union Territory Council for clinical establishments, as the case may be.

(2) The State Council or the Union territory Council, as the case may be, shall consist of the following members, namely:—

(a) Secretary, Health — *ex officio*, who shall be the Chairman;

(b) Director of Health Services — *ex officio* member-secretary;

(c) Directors of different streams of Indian Systems of Medicine—*ex officio* members;

(d) one representative each to be elected by the executive committee of—

(i) State Medical Council of India;

(ii) State Dental Council of India;

(iii) State Nursing Council of India;

(iv) State Pharmacy Council of India;

(e) three representatives to be elected by the Executive of the State Council or the Union territory Council, as the case may be, of Indian Medicine representing the Ayurveda, Siddha and Unani systems of medicine;

(f) one representative to be elected by the State Council of the Indian Medical Association;

(g) one representative from the line of paramedical systems;

(h) two representatives from State level consumer groups or reputed non-Governmental organisations working in the field of health.

(3) The nominated member of the State Council or the Union territory Council, as the case may be, shall hold office for a term of three years, but shall be eligible for re-nomination for maximum of one more term of three years.

(4) The elected members of the State Council or the Union territory Council, as the case may be, shall hold office for three years, but shall be eligible for re-election:

Provided that the person nominated or elected, as the case may be, shall hold office for so long as he holds the appointment of the office by virtue of which he was nominated or elected to the State Council or the Union Territory Council, as the case may be.

(5) The State Council or the Union Territory Council shall perform the following functions, namely:—

(a) compiling and updating the State Registers of clinical establishment;

(b) sending monthly returns for updating the National Register;

(c) representing the State in the National Council;

(d) hearing of appeals against the orders of the authority; and

(e) publication on annual basis a report on the state of implementation of standards within their respective States.

Providing  
information  
to National  
Council.

9. It shall be the responsibility of the State Council for clinical establishments to compile and update the State Register of clinical establishments of the State and further to send monthly returns in digital format for updating the National Register.

**10. (1)** The State Government shall, by notification, set-up an authority to be called the district registering authority for each district for registration of clinical establishments, with the following members, namely:—

(a) District Collector - Chairperson;

(b) District Health Officer - Convenor;

(c) three members with such qualifications and on such terms and conditions as may be prescribed by the Central Government.

(2) Notwithstanding anything contained in sub-section (1), for the purposes of provisional registration of clinical establishments under section 14, the District Health Officer or the Chief Medical Officer (by whatever name called) shall exercise the powers of the authority as per procedure that may be prescribed.

**11.** No person shall run a clinical establishment unless it has been duly registered in accordance with the provisions of this Act.

**12. (1)** For registration and continuation, every clinical establishment shall fulfil the following conditions, namely:—

(i) the minimum standards of facilities and services as may be prescribed;

(ii) the minimum requirement of personnel as may be prescribed;

(iii) provisions for maintenance of records and reporting as may be prescribed;

(iv) such other conditions as may be prescribed.

(2) The clinical establishment shall undertake to provide within the staff and facilities available, such medical examination and treatment as may be required to stabilise the emergency medical condition of any individual who comes or is brought to such clinical establishment.

**13. (1)** Clinical establishment of different systems shall be classified into such categories as may be prescribed by the Central Government, from time to time.

(2) Different standards may be prescribed for classification of different categories referred to in sub-section (1):

Provided that in prescribing the standards for clinical establishments, the Central Government shall have regard to the local conditions.

#### CHAPTER IV

##### PROCEDURE FOR REGISTRATION

**14. (1)** For the purposes of registration of the clinical establishment under section 10, an application in the prescribed proforma along with the prescribed fee shall be made to the or authority.

(2) The application shall be filed in person or by post or online.

(3) The application shall be made in such form and shall be accompanied by such details as may be prescribed under this Act of rules made thereunder.

(4) If any clinical establishment is in existence at the time of the commencement of this Act, an application for its registration shall be made within one year from the date of the commencement of this Act and a clinical establishment which comes into existence after commencement of this Act, shall apply for permanent registration within a period of six months from the date of its establishment.

(5) If any clinical establishment is already registered under any existing law requiring registration of such establishments, even then it shall apply for registration as referred to in sub-section (1).

Provisional certificate.	<b>15.</b> The authority shall, within a period of ten days from the date of receipt of such application, grant to the applicant a certificate of provisional registration in such form and containing such particulars and such information, as may be prescribed.
No inquiry prior to provisional registration.	<b>16.</b> (1) The authority shall not conduct any inquiry prior to the grant of provisional registration. (2) Notwithstanding the grant of the provisional certificate of registration, the authority shall, within a period of forty-five days from the grant of provisional registration, cause to be published in such manner, as may be prescribed, all particulars of the clinical establishment so registered provisionally.
Validity of provisional registration.	<b>17.</b> Subject to the provisions of section 23, every provisional registration shall be valid to the last day of the twelfth month from the date of issue of the certificate of registration and such registration shall be renewable.
Display of certificate of registration.	<b>18.</b> The certificate shall be kept affixed in a conspicuous place in the clinical establishment in such manner so as to be visible to every one visiting such establishment.
Duplicate certificate.	<b>19.</b> In case the certificate is lost, destroyed, mutilated or damaged, the authority shall issue a duplicate certificate on the request of the clinical establishment and on the payment of such fees as may be prescribed.
Certificate to be non-transferable.	<b>20.</b> (1) The certificate of registration shall be non-transferable. (2) In the event of change of ownership or management, the clinical establishment shall inform the authority of such change in such manner as may be prescribed. (3) In the event of change of category, or location, or on ceasing to function as a clinical establishment, the certificate of registration in respect of such clinical establishment shall be surrendered to the authority and the clinical establishment shall apply afresh for grant of certificate of registration.
Publication of expiry of registration.	<b>21.</b> The authority shall cause to be published within such time and in such manner, as may be prescribed, the names of clinical establishments whose registration has expired.
Renewal of registration.	<b>22.</b> The application for renewal of registration shall be made thirty days before the expiry of the validity of the certificate of provisional registration and, in case the application for renewal is made after the expiry of the provisional registration, the authority shall allow renewal of registration on payment of such enhanced fees, as may be prescribed.
Time limit for provisional registration.	<b>23.</b> Where the clinical establishments in respect of which standards have been notified by the Central Government, provisional registration shall not be granted or renewed beyond,— (i) the period of two years from the date of notification of the standards in case of clinical establishments which came into existence before the commencement of this Act; (ii) the period of two years from the date of notification of the standards for clinical establishments which come into existence after the commencement of this Act but before the notification of the standards; and (iii) the period of six months from the date of notification of standards for clinical establishments which come into existence after standards have been notified.
Application for permanent registration.	<b>24.</b> Application for permanent registration by a clinical establishment shall be made to the authority in such form and be accompanied by such fees, as may be prescribed.

<p><b>25.</b> The clinical establishment shall submit evidence of having complied with the prescribed minimum standards in such manner, as may be prescribed.</p>	<p>Verification of application.</p>
<p><b>26.</b> As soon as the clinical establishment submits the required evidence of having complied with the prescribed minimum standards, the authority shall cause to be displayed for information of the public at large and for filing objections, if any, in such manner, as may be prescribed, all evidence submitted by the clinical establishment of having complied with the prescribed minimum standards for a period of thirty days before processing for grant of permanent registration.</p>	<p>Display of information for filing objections.</p>
<p><b>27.</b> If objections are received within the period referred to in the preceding section, such objections shall be communicated to the clinical establishment for response within a period of forty-five days.</p>	<p>Communication of objections.</p>
<p><b>28.</b> Permanent registration shall be granted only when a clinical establishment fulfils the prescribed standards for registration by the Central Government.</p>	<p>Standards for permanent registration.</p>
<p><b>29.</b> The authority shall pass an order immediately after the expiry of the prescribed period and within the next thirty days thereafter either—</p> <p>(a) allowing the application for permanent registration; or</p> <p>(b) disallowing the application:</p>	<p>Allowing or disallowing of registration.</p>
<p>Provided that the authority shall record its reasons, if it disallows an application, for permanent registration.</p>	
<p><b>30.</b> (1) The authority shall, if it, allows an application of the clinical establishment, issue a certificate of permanent registration in such form and containing such particulars, as may be prescribed.</p> <p>(2) The certificate shall be valid for a period of five years from the date of issue.</p> <p>(3) For the purposes of sub-section (1), the provisions of sections 18, 19, 20 and 21 shall also apply.</p> <p>(4) The applications for renewal of permanent registration shall be made within six months before the expiry of the validity of the certificate of permanent registration and, in case the application of renewal is not submitted within the stipulated period, the authority may allow renewal of registration on payment of such enhanced fees and penalties as may be prescribed.</p>	<p>Certificate of permanent registration.</p>
<p><b>31.</b> The disallowing of an application for permanent registration shall not debar a clinical establishment from applying afresh for permanent registration under section 24 and after providing such evidence, as may be required, of having rectified the deficiencies on which grounds the earlier application was disallowed.</p>	<p>Fresh application for permanent registration.</p>
<p><b>32.</b> (1) If, at any time after any clinical establishment has been registered, the authority is satisfied that,—</p> <p>(a) the conditions of the registration are not being complied with; or</p> <p>(b) the person entrusted with the management of the clinical establishment has been convicted of an offence punishable under this Act,</p> <p>it may issue a notice to the clinical establishment to show cause within three months' time as to why its registration under this Act should not be cancelled for the reasons to be mentioned in the notice.</p>	<p>Cancellation of registration.</p>
<p>(2) If after giving a reasonable opportunity to the clinical establishment, the authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder, it may, by an order, without prejudice to any other action that it may take against such clinical establishment, cancel its registration.</p>	

(3) Every order made under sub-section (2) shall take effect-

(a) where no appeal has been preferred against such order immediately on the expiry of the period prescribed for such appeal; and

(b) where such appeal has been preferred and it has been dismissed from the date of the order of such dismissal:

Provided that the authority, after cancellation of registration for reasons to be recorded in writing, may restrain immediately the clinical establishment from carrying on if there is imminent danger to the health and safety of patients.

Inspection of registered clinical establishments.

**33.** (1) The authority or an officer authorised by it shall have the right to cause an inspection of, or inquiry in respect of any registered clinical establishment, its building, laboratories and equipment and also of the work conducted or done by the clinical establishment, to be made by such multi-member inspection team as it may direct and to cause an inquiry to be made in respect of any other matter connected with the clinical establishment and that establishment shall be entitled to be represented thereat.

(2) The authority shall communicate to the clinical establishment the views of that authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the clinical establishment thereon, advise that establishment upon the action to be taken.

(3) The clinical establishment shall report to the authority, the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry and such report shall be furnished within such time, as the authority may direct.

(4) Where the clinical establishment does not, within a reasonable time, take action to the satisfaction of the authority, it may, after considering any explanation furnished or representation made by the clinical establishment, issue such directions within such time as indicated in the direction, as that authority deems fit, and the clinical establishment shall Comply with such directions.

Power to enter.

**34.** The authority or an officer authorised by it may, if there is any reason to suspect that anyone is carrying on a clinical establishment without registration, enter and search in the manner prescribed, at any reasonable time and the clinical establishment, shall offer reasonable facilities for inspection or inquiry and be entitled to be represented thereat:

Provided that no such person shall enter the clinical establishment without giving notice of his intention to do so.

Levy of fee by State Government. Appeal.

**35.** The State Government may charge fees for different categories of clinical establishments, as may be prescribed.

**36.** (1) Any person, aggrieved by an order of the registering authority refusing to grant or renew a certificate of registration or revoking a certificate of registration may; in such manner and within such period as may be prescribed, prefer an appeal to the State Council:

Provided that the State Council may entertain an appeal preferred after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

## CHAPTER V

## REGISTER OF CLINICAL ESTABLISHMENTS

**37. (1)** The authority shall within a period of two years from its establishment, compile, publish and maintain in digital format a register of clinical establishments, registered by it and it shall enter the particulars of the certificate so issued in a register to be maintained in such form and manner, as may be prescribed by the State Government.

Register of clinical establishments.

(2) Each authority, including any other authority set-up for the registration of clinical establishments under any other law for the time being in force, shall supply in digital format to the State Council of clinical establishments a copy of every entry made in the register of clinical establishments in such manner, as may be prescribed to ensure that the State Register is constantly up-to-date with the registers maintained by the registering authority in the State.

**38. (1)** Every State Government shall maintain in digital and in such form and containing such particulars, as may be prescribed by the Central Government a register to be known as the State Register of clinical establishments in respect of clinical establishments of that State.

Maintenance of State Register of clinical establishments.

(2) Every State Government shall supply in digital format to the Central Government, a copy of the State Register of clinical establishments and shall inform the Central Government all additions to and other amendments in such register made, for a particular month by the 15th day of the following month.

**39.** The Central Government shall maintain in digital format an All India Register to be called as the National Register of clinical establishments that shall be an amalgam of the State Register of clinical establishments maintained by the State Governments and shall cause the same to be published in digital format.

Maintenance of National Register of clinical establishments.

## CHAPTER VI

## PENALTIES

**40.** Whoever contravenes any provision of this Act shall, if no penalty is provided elsewhere, be punishable for the first offence with fine which may extend to ten thousand rupees, for any second offence with the which may extend to fifty Thousand rupees and for any subsequent offence with fine which may extend to five lakh rupees.

Penalty.

**41. (1)** Whoever carries on a clinical establishment without registration shall, on first contravention, be liable to a monetary penalty up to fifty thousand rupees, for second contravention with a monetary penalty which may extend to two lakh rupees and for any subsequent contravention with a monetary penalty which may extend to five lakh rupees.

Monetary penalty for non-registration.

(2) Whoever knowingly serves in a clinical establishment which is not duly registered under this Act, shall be liable to a monetary penalty which may extend to twenty-five thousand rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty specified in those sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8) of section 42.



(5) While determining the quantum of monetary penalty, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the State Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

Disobedience of direction, obstruction and refusal of information.

**42.** (1) Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall be liable to a monetary penalty which may extend to five lakh rupees.

(2) Whoever being required by or under this Act to supply any information wilfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall be liable to a monetary penalty which may extend to five lakh rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty specified in those sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8).

(5) While determining the quantum of monetary penalty, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the State Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

(8) The monetary penalty levied under sections 41 and 42 shall be credited to such account as the State Government may by order specify in this behalf.

Penalty for minor deficiency.

**43.** Whoever contravenes any provision of this Act or any rule made thereunder resulting in deficiencies that do not pose any imminent danger to the health and safety of any patient and can be rectified within a reasonable time, shall be punishable with fine which may extend to ten thousand rupees.

Contravention by companies.

**44.** (1) Where a person committing contravention of any of the provisions of this Act or of any rule made thereunder is a company, every person who, at the time the contravention was committed, was 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 contravention and shall be liable to fine:

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



(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule made thereunder has been committed by a company and it is proved that the contravention has taken place 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 contravention and shall be liable to fine.

*Explanation.*—For the purpose of this section,—

(a) “company” means a 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.

**45.** (1) Where an offence under this Act has been committed by any Department of Government within a period of six months after the commencement of this Act, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by  
Government  
Department.

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 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.

**46.** Whoever fails to pay the fine, the State Council of clinical establishment may prepare a certificate signed by an officer authorised by it specifying the fine due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder, as if it were an arrear of land revenue.

Recovery of  
fine.

## CHAPTE VII

### MISCELLANEOUS

**47.** (1) No suit, prosecution or other legal proceedings shall lie against any authority or any member of the National Council or State Council or any officer authorised in this behalf in respect of anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

Protection of  
action taken  
in good faith.

(2) No suit or other legal proceedings shall lie against a State Government or the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

**48.** Every clinical establishment shall, within such time or within such extended time, as may be prescribed in that behalf, furnish to the authority or the State Council or the National Council such returns or the statistics and other information in such manner, as may be prescribed by the State Government from time to time.

Furnishing of  
returns, etc.

**49.** Without prejudice to the foregoing provisions of this Act, the authority shall have the power to issue such directions, including furnishing returns, statistics and other information for the proper functioning of clinical establishments and such directions shall be binding.

Power to give  
directions.

**50.** Every employee of the authority, the National Council and the State Council shall be deemed to, when acting or purporting to act in pursuance of any of the provisions of this Act, be public servants within the meaning of section 21 of the Indian Penal Code.

Employees of  
the authority  
etc., to be  
public  
servants.

Power to  
remove  
difficulties.

**51.** (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 or expedient for removal of the difficulty:

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

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

Power of  
Central  
Government  
to make rules.

**52.** (1) The Central Government may, by notification, make rules for carrying out all or any of 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) allowances for the members of the National Council under sub-section (5) of section 3;

(b) appointment of such person to be the Secretary of the State Council by the Central Government under sub-section (10) of section 3;

(c) the determination of standards and for classification of clinical establishments under section 7;

(d) the qualification and the terms and conditions for the members of the authority under clause (e) of sub-section (1) of section 10;

(e) the procedure under which the powers of the authority may be exercised by the District Health Officer or Chief Medical Officer for the purpose of provisional registration of clinical establishment under sub-section (2) of section 10;

(f) the minimum standards of facilities and services under clause (i) of sub-section (1) of section 12;

(g) the minimum number of personnel under clause (ii) of sub-section (1) of section 12;

(h) the maintenance of records and reporting by the clinical establishment under clause (iii) of sub-section (1) of section 12;

(i) other conditions for registration and continuation of clinical establishment under clause (iv) of sub-section (1) of section 12;

(j) classification of clinical establishment under sub-section (1) of section 13;

(k) the different standards for classification of clinical establishments under sub-section (2) of section 13;

(l) the minimum standards for permanent registration under section 28;

(m) the form and particulars to be contained in the register to be maintained under section 38.

Laying of  
rules.

**53.** Every rule made by the Central Government under this Act 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.

54. (1) The State Government may, by notification, make rules for carrying out in respect of matters which do not fall within the purview of section 52.

Power of  
State  
Government  
to make  
rules.

(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) the proforma and the fee to be paid for registration under sub-section (1) of section 14;

(b) the form and details of application under sub-section (3) of section 14;

(c) the particulars and information contained in certificate of provisional registration under section 15;

(d) the manner of publication of all particulars of the clinical establishments proposed to be registered under sub-section (2) of section 16;

(e) the fees to be paid to issue a duplicate certificate under section 19;

(f) the change of ownership or management to be informed by the clinical establishment to the authority under sub-section (2) of section 20;

(g) the manner in which the authority shall publish the names of the clinical establishments whose registration expired under section 21;

(h) the enhanced fees to be charged for renewal after expiry of the provisional registration under section 22;

(i) the form of the application and fees to be charged by the State Government under section 24;

(j) the manner of submitting evidence of the clinical establishments having complied with the minimum standards under section 25;

(k) the manner of displaying information of the clinical establishments having complied with the minimum standards for filing objection under section 26;

(l) the expiry of period specified in section 29;

(m) the form and particulars of the certificate of registration under section 30;

(n) the period within which an appeal shall be preferred under clause (a) of sub-section (3) of section 32;

(o) the manner of entry and search of clinical establishment under section 34;

(p) the fees to be charged by the State Government for different categories of clinical establishments under section 35;

(q) the manner and the period within which an appeal *may* be preferred to the State Council under sub-section (1) of section 36;

(r) the form and the fee to be paid for an appeal under sub-section (2) of section 36;

(s) the form and the manner in which the register to be maintained under sub-section (1) of section 37;

(t) the manner of supply to the State Council in digital format the entry made in the register of clinical establishment under sub-section (2) of section 37;

(u) the manner of holding an inquiry by the authority under sub-section (3) of sections 41 and 42;

(v) the manner of filing the appeal under sub-section (7) of sections 41 and 42;

(w) the manner and the time within which the information is to be furnished to the authority or the State Council or the National Council as the case may be, under section 48;

(x) any other matter which is required to be or may be prescribed by the State Government.

Laying of rules. **55.** Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Savings. **56.** (1) The provisions of this Act shall not apply to the States in which the enactments specified in the Schedule are applicable:

Provided that the States in which the enactments referred to in sub-section (1) are applicable, and such States subsequent to the commencement of this Act, adopts this Act under clause (1) of article 252 of the Constitution, the provisions of this Act shall, subsequent to such adoption, apply in that State.

(2) The Central Government may, as and when consider necessary, by notification amend the Schedule.

#### THE SCHEDULE

[See section 56]

1. The Andhra Pradesh Private Medical Care Establishments (Registration and Regulation) Act, 2002.
2. The Bombay Nursing Homes Registration Act, 1949.
3. The Delhi Nursing Homes Registration Act, 1953.
4. The Madhya Pradesh Upcharya Griha Tatha Rujopchar Sanbabdu Sthapamaue (Ragistrikaran Tatha Anugyapan) Adhinyam, 1973.
5. The Manipur Homes and Clinics Registration Act, 1992.
6. The Nagaland Health Care Establishments Act, 1997.
7. The Orissa Clinical Establishments (Control and Regulation) Act, 1990.
8. The Punjab State Nursing Home Registration Act, 1991.
9. The West Bengal Clinical Establishments Act, 1950.

V.K. BHASIN,  
*Secretary to the Government of India.*

(Republished by order of the Governor)

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