

Unit 4

The National Green Tribunal Act, 2010

Introduction

The National Green Tribunal Act, 2010 (NGT Act) is a landmark legislation in India, enacted to provide a specialized judicial mechanism for the expeditious resolution of environmental disputes. Passed under Article 253 of the Constitution to implement India's obligations under international environmental conventions, the Act establishes the National Green Tribunal (NGT) as a dedicated forum for addressing issues related to environmental protection, conservation of natural resources, and enforcement of environmental laws. By ensuring speedy justice and effective enforcement, the NGT Act strengthens India's commitment to sustainable development and environmental governance.

Salient Features of the Act

The NGT Act, 2010, has several key features that distinguish it as a robust framework for environmental adjudication:

1. **Specialized Tribunal:** The Act establishes the NGT as a specialized body to handle cases involving environmental laws, replacing multiple forums to ensure consistency and efficiency.
2. **Wide Jurisdiction:** The NGT has jurisdiction over civil cases related to environmental issues under seven key laws, including the Water Act, 1974, Air Act, 1981, and Environment (Protection) Act, 1986.
3. **Principles of Justice:** The Act incorporates principles of sustainable development, precautionary principle, and polluter pays principle to guide decisions (Section 20).
4. **Accessibility:** Any person, including individuals, NGOs, or communities, can approach the NGT, promoting public participation in environmental governance.
5. **Time-Bound Disposal:** The Act mandates disposal of cases within six months, ensuring swift resolution of disputes (Section 18(3)).

6. **Penal Powers:** The NGT can impose penalties, including fines and imprisonment, for non-compliance with its orders (Section 26).
7. **Appellate Jurisdiction:** The Act allows appeals against orders of authorities under specified environmental laws to be heard by the NGT (Section 16).
8. **Judicial and Technical Expertise:** The Tribunal comprises judicial and expert members to ensure informed decision-making on complex environmental issues.
9. **Appeal to Supreme Court:** Orders of the NGT can be appealed to the Supreme Court on substantial questions of law (Section 22).

Constitution of Boards and Their Powers

The NGT Act establishes the National Green Tribunal as a specialized adjudicatory body, but it does not refer to “Boards” as in the context of Pollution Control Boards under the Water or Air Acts. Instead, it focuses on the constitution and powers of the NGT itself. Below is a detailed explanation of the Tribunal’s constitution and powers, as the term “Boards” likely refers to a misnomer for the Tribunal in this context.

- **Constitution of the National Green Tribunal (Sections 4-5):**
 - **Composition:** The NGT consists of a Chairperson, Judicial Members, and Expert Members, with a minimum of 10 and a maximum of 20 full-time members for each category (Section 4(1)).
 - **Chairperson:** A serving or retired Judge of the Supreme Court or Chief Justice of a High Court, appointed by the Central Government in consultation with the Chief Justice of India (Section 5(1)).
 - **Judicial Members:** Serving or retired Judges of a High Court, ensuring legal expertise.
 - **Expert Members:** Individuals with qualifications and experience in environmental science, technology, or policy, ensuring technical expertise (Section 5(2)).
 - **Appointment Process:** Members are appointed by the Central Government based on recommendations from a selection committee (Section 6).

- **Term and Qualifications:** Members serve for five years or until age 70 (Chairperson/Judicial Members) or 65 (Expert Members). Expert Members must have a degree in science, technology, or environmental management with 15 years of experience, including 5 years in environmental matters (Section 5).
- **Benches:** The NGT operates through a Principal Bench in New Delhi and regional benches in cities like Chennai, Bhopal, Pune, and Kolkata to ensure accessibility (Section 4(3)).
- **Powers of the National Green Tribunal (Sections 14-20, 24-26):**
 - **Jurisdiction (Sections 14-16):**
 - **Original Jurisdiction:** The NGT adjudicates civil cases involving substantial questions related to the environment, arising from the implementation of seven specified laws: Water (Prevention and Control of Pollution) Act, 1974; Water (Prevention and Control of Pollution) Cess Act, 1977; Forest (Conservation) Act, 1980; Air (Prevention and Control of Pollution) Act, 1981; Environment (Protection) Act, 1986; Public Liability Insurance Act, 1991; and Biological Diversity Act, 2002 (Section 14).
 - **Appellate Jurisdiction:** The NGT hears appeals against orders or decisions of authorities under these laws, such as Pollution Control Boards or state governments (Section 16).
 - **Relief and Remedies (Section 15):** The NGT can grant relief, including:
 - Compensation for environmental damage or harm to victims.
 - Restitution of property damaged or restoration of the environment.
 - Directions to prevent or mitigate pollution.
 - **Procedure and Powers (Section 19):** The NGT is not bound by the Code of Civil Procedure, 1908, or the Indian Evidence Act, 1872, and follows principles of natural justice. It has powers akin to a civil court, including summoning witnesses, ordering discovery of documents, and

commissioning scientific studies.

- **Guiding Principles (Section 20):** The NGT applies the principles of sustainable development, precautionary principle, and polluter pays principle in its decisions, ensuring environmentally sound judgments.
- **Penal Powers (Sections 25-26):** The NGT can enforce compliance with its orders, imposing imprisonment up to three years, fines up to ₹10 crore (individuals) or ₹25 crore (companies), or both for non-compliance (Section 26).
- **Bar of Jurisdiction (Section 29):** Civil courts cannot entertain cases falling under the NGT's jurisdiction, ensuring specialized adjudication.
- **Execution of Orders (Section 25):** The NGT can enforce its orders as decrees of a civil court, ensuring effective implementation.

Conclusion

The National Green Tribunal Act, 2010, is a transformative legislation that strengthens India's environmental justice framework. By establishing the NGT as a specialized, accessible, and efficient tribunal, the Act ensures the expeditious resolution of environmental disputes while incorporating principles of sustainable development. The Tribunal's composition, blending judicial and technical expertise, and its wide-ranging powers to adjudicate, grant relief, and enforce compliance make it a vital institution for environmental protection. Through its robust mechanisms, the NGT Act plays a pivotal role in safeguarding India's environment and promoting accountability in environmental governance.

Noise Pollution and its Control, including Noise Pollution (Regulation and Control) Rules, 2000

Introduction

Noise pollution, an often-overlooked environmental issue, poses significant threats to human health, well-being, and ecological balance. In India, the control of noise pollution is primarily governed by the **Environment (Protection) Act, 1986**, under which the **Noise Pollution (Regulation and Control) Rules, 2000** were framed. These rules provide a structured framework to regulate noise levels, designate zones, and enforce compliance to mitigate the adverse effects of noise pollution. Additionally, other laws like the Air (Prevention and Control of Pollution) Act, 1981, and judicial pronouncements have supplemented efforts to address noise pollution. This framework aims to balance developmental activities with the right to a peaceful environment, aligning with constitutional mandates under Article 21.

Noise Pollution: Concept and Impacts

Noise pollution refers to excessive or harmful sound levels that disrupt human or environmental well-being. It is defined under the Noise Pollution (Regulation and Control) Rules, 2000, as unwanted sound that adversely affects health or safety. Common sources include industrial activities, vehicular traffic, construction, loudspeakers, and firecrackers. Its impacts include:

- **Health Effects:** Hearing loss, stress, sleep disturbances, hypertension, and psychological disorders.
- **Environmental Effects:** Disruption of wildlife communication, breeding, and habitats.
- **Social Impacts:** Reduced productivity, impaired communication, and diminished quality of life.

The recognition of the right to a noise-free environment as part of Article 21 (Right to Life) by the Supreme Court in cases like *Noise Pollution (V), In Re (2005)* underscores its legal significance.

Legal Framework for Noise Pollution Control

The primary legislation addressing noise pollution is the **Environment (Protection) Act, 1986**, which empowers the Central Government to regulate environmental pollutants, including noise. Section 6 of the Act allows the framing of rules to control

noise levels, leading to the enactment of the **Noise Pollution (Regulation and Control) Rules, 2000**. Other relevant laws include:

- **Air (Prevention and Control of Pollution) Act, 1981:** Defines air pollutants to include noise, enabling State Pollution Control Boards (SPCBs) to regulate it.
 - **Indian Penal Code, 1860:** Sections 268, 290, and 291 address public nuisance caused by noise.
 - **Motor Vehicles Act, 1988:** Regulates noise from vehicular horns and exhausts.
 - **Factories Act, 1948:** Mandates measures to protect workers from excessive noise in workplaces.
- Judicial interventions, such as *Church of God (Full Gospel) in India v. KKR Majestic Colony Welfare Association (2000)* and *Forum for Prevention of Environmental and Sound Pollution v. Union of India (2005)*, have reinforced the enforcement of noise control measures.

Noise Pollution (Regulation and Control) Rules, 2000

The Noise Pollution (Regulation and Control) Rules, 2000, notified under the Environment (Protection) Act, 1986, provide a comprehensive framework for controlling noise pollution. Key provisions include:

1. Ambient Air Quality Standards for Noise (Rule 3):

- The rules designate four zones with specific noise limits (in decibels, dB(A)):
 - **Industrial Areas:** 75 dB (day), 70 dB (night).
 - **Commercial Areas:** 65 dB (day), 55 dB (night).
 - **Residential Areas:** 55 dB (day), 45 dB (night).
 - **Silence Zones:** 50 dB (day), 40 dB (night) (areas within 100 meters of hospitals, schools, courts, etc.).
- Daytime is defined as 6:00 AM to 10:00 PM, and nighttime as 10:00 PM to 6:00 AM.

2. Restrictions on Noise Sources (Rules 5-7):

- **Loudspeakers and Public Address Systems** (Rule 5): Use is prohibited without written permission from the designated authority (e.g., District Magistrate or Police Commissioner). Use is banned between 10:00 PM and 6:00 AM, except in enclosed premises for private use.
- **Firecrackers**: Restrictions on bursting firecrackers during nighttime to reduce noise pollution.
- **Vehicles and Appliances**: Noise from horns, construction equipment, and domestic appliances must comply with prescribed standards.

3. Silence Zones (Rule 3(5)): Areas within 100 meters of hospitals, educational institutions, courts, or other designated zones are declared silence zones, where noise levels are strictly regulated.

4. Implementation and Enforcement (Rules 4, 8):

- **State Government Responsibility**: State Governments ensure compliance with ambient noise standards and designate authorities for enforcement.
- **Complaint Mechanism**: Any person can file a complaint with the designated authority for violations, which must be addressed promptly.
- **Power to Prohibit**: Authorities can issue orders to restrict noise-generating activities, including seizing equipment like loudspeakers.

5. Monitoring and Compliance: The Central Pollution Control Board (CPCB) and SPCBs monitor noise levels, while police and local authorities enforce the rules.

Other Mechanisms for Noise Pollution Control

- **Judicial Role**: The Supreme Court and High Courts have played a proactive role in noise control. In *Noise Pollution (V), In Re (2005)*, the Supreme Court issued directions banning loudspeakers and firecrackers at night and emphasized strict enforcement of noise standards.

- **National Green Tribunal (NGT):** The NGT, under the NGT Act, 2010, adjudicates noise pollution cases, ensuring compliance with the 2000 Rules and other environmental laws.
- **Public Awareness:** The CPCB and SPCBs conduct awareness campaigns to educate communities about noise pollution and its control.
- **Local Laws:** Municipal laws and police regulations supplement the Noise Rules by imposing restrictions on noise-generating activities during festivals or public events.

Penalties for Non-Compliance

Violations of the Noise Pollution (Regulation and Control) Rules, 2000, are punishable under the **Environment (Protection) Act, 1986**:

- **Section 15:** Non-compliance attracts imprisonment up to five years, a fine up to ₹1 lakh, or both. For continuing violations, an additional fine of ₹5,000 per day applies. Persistent offences beyond one year may lead to imprisonment up to seven years.
- **Cognizance:** Complaints can be filed by the CPCB, SPCBs, authorized officers, or individuals after giving 60 days' notice.
- **NGT Jurisdiction:** The NGT can impose penalties, including compensation for environmental damage caused by noise pollution.

Conclusion

Noise pollution, with its detrimental effects on health and the environment, is effectively addressed in India through the **Noise Pollution (Regulation and Control) Rules, 2000**, framed under the **Environment (Protection) Act, 1986**. The rules establish clear noise standards, designate silence zones, and impose restrictions on noise sources like loudspeakers and firecrackers. Supported by the proactive role of the judiciary, NGT, and Pollution Control Boards, the framework ensures robust enforcement and public participation. By integrating legal, administrative, and judicial measures, India's noise pollution control regime promotes a healthier and quieter environment, aligning with the constitutional guarantee of a pollution-free life under Article 21.

Salient Features of The Public Liability Insurance Act, 1991

Introduction

The Public Liability Insurance Act, 1991 (PLI Act), is a pivotal piece of legislation in India, enacted to address the urgent need for immediate relief to victims of accidents involving hazardous substances. Promulgated under Article 253 of the Constitution to fulfill India's obligations under international environmental conventions, the Act was a direct response to the catastrophic Bhopal Gas Tragedy of 1984, which highlighted the devastating consequences of industrial mishaps. The PLI Act establishes a framework for providing prompt financial assistance to victims for death, injury, or property damage caused by hazardous substances, without requiring proof of negligence. By mandating compulsory insurance for industries and creating the Environment Relief Fund, the Act embodies the "polluter pays" principle, ensuring accountability and swift justice. Its integration with the National Green Tribunal (NGT) and other environmental laws strengthens India's commitment to environmental safety and public welfare.

Salient Features of the Public Liability Insurance Act, 1991

The PLI Act, 1991, is designed to provide an efficient and equitable mechanism for compensating victims of industrial accidents involving hazardous substances. Below are its key features, elaborated to provide a comprehensive understanding:

1. Objective of Immediate Relief:

The primary objective of the PLI Act is to ensure immediate financial relief to victims of accidents caused by the handling of hazardous substances. Section 3 establishes liability for death, personal injury, or damage to property resulting from such accidents. Unlike traditional tort law, which requires proof of negligence, the Act adopts a no-fault liability approach, enabling victims to receive compensation quickly without prolonged litigation. This feature is critical in addressing the immediate needs of affected individuals, such as medical expenses or loss of livelihood, thereby promoting social justice and public welfare.

2. Compulsory Insurance Requirement:

- Under Section 4, every owner handling hazardous substances must procure one or more insurance policies before commencing operations. These policies cover potential liabilities arising from accidents, ensuring funds are readily available for compensation.

- The insurance amount is determined based on the nature and quantity of hazardous substances handled, as specified by the Central Government.
- Owners must renew policies before expiry to maintain continuous coverage, preventing gaps that could jeopardize victim relief.
- This mandatory insurance mechanism reduces the financial burden on the state and ensures industries bear the cost of potential harm.

3. No-Fault Liability Principle:

- Section 3 incorporates the principle of strict or no-fault liability, holding owners liable for harm caused by accidents involving hazardous substances, regardless of fault or negligence.
- This aligns with the "polluter pays" principle, a cornerstone of environmental law, ensuring that industries internalize the costs of environmental and public harm.
- The no-fault approach simplifies the claims process, making it accessible to victims who may lack resources to pursue complex legal battles.

4. Definition of Hazardous Substances:

- The Act defines "hazardous substance" under Section 2(d) as any substance or preparation listed in the Schedule or notified by the Central Government under the Environment (Protection) Act, 1986.
- The Schedule includes chemicals, gases, and other materials with properties that pose risks to human health, safety, or the environment when mishandled.
- This broad definition ensures comprehensive coverage of substances that could cause significant harm, such as toxic chemicals used in manufacturing or processing.

5. Scope and Applicability:

- The Act applies to industries, enterprises, or individuals engaged in handling hazardous substances in quantities specified in the Schedule or

as notified (Section 2(e)).

- "Handling" includes manufacturing, processing, treatment, storage, transportation, use, or disposal of hazardous substances, covering the entire lifecycle of such materials.
- The Act's wide applicability ensures that all entities, from large industrial units to small enterprises, are accountable for safe handling practices.

6. Environment Relief Fund (ERF):

- Section 7A empowers the Central Government to establish the Environment Relief Fund to collect insurance premiums, contributions, and other funds for providing relief to victims.
- The ERF acts as a centralized pool to ensure sufficient resources for compensation, especially in cases of large-scale accidents where insurance payouts may be inadequate.
- The Fund is managed by an authority appointed by the Central Government, ensuring transparency and efficient disbursement.

7. Compensation Structure:

- The Act prescribes specific compensation amounts under Section 3, which may be revised by the Central Government:
 - Up to ₹25,000 for death, plus reimbursement of medical expenses up to ₹12,500.
 - Up to ₹25,000 for permanent total or partial disability, depending on the extent of impairment.
 - Up to ₹6,000 for loss of wages due to temporary disability.
 - Up to ₹1,000 for property damage caused by the accident.
- These fixed amounts ensure uniformity and expedite relief, though they are supplemented by additional claims under other laws if necessary.

8. Role of the District Collector:

- The District Collector is the primary authority for receiving and processing claims under Section 6.
- Victims or their representatives must file applications within five years of the accident, providing details of the harm suffered.
- The Collector verifies claims, assesses damages, and disburses compensation from the ERF or insurance proceeds, ensuring a localized and accessible mechanism for relief.

9. Penalties for Non-Compliance:

- Section 14 imposes penalties for violations, such as failure to maintain insurance or obstructing authorized officers.
- Offenders may face imprisonment up to three months, a fine up to ₹10,000, or both. For continuing violations, an additional fine of ₹1,000 per day applies.
- These penalties deter non-compliance and reinforce the mandatory nature of the Act's provisions.

10. Offences by Companies:

- Section 16 holds persons in charge of a company (e.g., directors, managers, or officers) liable for offences unless they prove the violation occurred without their knowledge or despite due diligence.
- This provision ensures corporate accountability, particularly in industries handling large quantities of hazardous substances.

11. Powers of the Central Government:

- Under Section 12, the Central Government can issue directions to owners, insurers, or authorities to ensure compliance with the Act.

- It can notify hazardous substances, prescribe insurance requirements, and establish guidelines for the ERF (Sections 2(d), 7A).
- Authorized officers are empowered to enter premises, inspect records, and seize materials to verify compliance (Section 10).

12. Cognizance of Offences:

- Section 19 stipulates that courts can take cognizance of offences only on a complaint by the Central Government or its authorized officers, ensuring controlled legal proceedings.
- This prevents frivolous litigation while maintaining accountability for violations.

13. Bar of Jurisdiction:

- Section 18 prohibits civil courts from entertaining suits or proceedings related to claims under the Act, vesting jurisdiction with the Collector and, for appeals, the NGT.
- This ensures specialized and expeditious resolution of disputes, avoiding delays in traditional courts.

14. Integration with National Green Tribunal:

- The PLI Act is linked to the National Green Tribunal Act, 2010, allowing appeals against orders of the Collector or authorities to be heard by the NGT.
- The NGT can adjudicate substantial questions of environmental law, impose additional penalties, or order environmental restoration, enhancing the Act's enforcement.

15. Power to Make Rules:

- Section 23 empowers the Central Government to frame rules for implementing the Act, covering procedures for claims, insurance requirements, and ERF management.

- Rules are laid before Parliament, ensuring legislative oversight and transparency.

Conclusion

The Public Liability Insurance Act, 1991, is a cornerstone of India's environmental and public safety framework, providing a proactive mechanism for compensating victims of accidents involving hazardous substances. Its adoption of no-fault liability, mandatory insurance, and the Environment Relief Fund ensures swift and equitable relief, particularly for vulnerable communities. By integrating stringent penalties, oversight by the District Collector, and appeals to the NGT, the Act reinforces accountability and the "polluter pays" principle. Its comprehensive provisions and alignment with international environmental commitments make it a vital tool for protecting public health and promoting sustainable industrial practices in India.