

## PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN  
MINISTRY OF LAW AND JUSTICE

NOTIFICATION

*Islamabad, the 8<sup>th</sup> October, 2008*

**S.R.O. 1262 (I)/2008.**- In exercise of the powers conferred by section 31 of the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997), read with section 21 thereof, the Federal Government, is pleased to make the following Rules namely:

### The Environmental Tribunals (Procedure and Functions) Rules, 2008

#### 1. Short title and commencement. -

- (1) These rules may be called the Environmental Tribunals (Procedure and Functions) Rules, 2008.
- (2) They shall come into force at once.

#### 2. Definitions. -

- (1) In these Rules, unless there is anything repugnant in the subject or context. -
  - (a) "Act" means the Pakistan Environmental Protection Act, 1997 (Act No. XXXIV of 1997);
  - (b) "Chairperson" means Chairperson of Tribunal appointed under sub-section (2) of section 20 of the Act;
  - (c) "Director General" means the Director General of the Federal Agency appointed under sub-section (2) of section 5 of the Act or the Director General of the Provincial Agency appointed under sub-section (2) of the section 8 of the Act as the case may be;
  - (d) "Member" means the members appointed under sub-section (2) of section 20 of the Act;
  - (e) "Registrar" means Registrar of the Tribunal;
  - (f) "Service of Pakistan" shall have the same meaning as are assigned to it in clause (1) of Article 260 of the Constitution of Islamic Republic of Pakistan, 1973; and  
"Tribunal" means the Environmental Tribunal established under subsection (1) of section 20 of the Act.
- (2) All other words and expressions used in these rules but not defined shall bear the same meaning as assigned to them in the Act.

**3. Qualification of Members. -**

- (1) A Technical Member of the Tribunal shall be a person who has at least -
  - (a) A second class B. Sc. Engineering degree in Chemical, Civil, Public Health, Environmental or Industrial Engineering; or a second class M. Sc. Degree in Physics, Chemistry, Biology, Chemical Technology or Environmental Science; and
  - (b) seventeen years, experience in BPS-17 and above or equivalent relating to the field of any prescribed academic qualification.

***Explanation:** The experience prescribed in clause (b) shall be calculated after acquisition of the educational qualification prescribed in clause (a).*

- (2) The Legal Member of the Tribunal shall be a person who is or has been as is qualified for appointment as judge of the High Court

**4. Term of office of Chairperson and Members. -**

- (1) The Chairperson and Members shall hold office for a period of three years, but the Federal Government may extend their term for a further period not exceeding two years only.
- (2) The Chairperson or a Member may resign from his office in writing under his own hand addressed to the Federal Government.

**5. Salary, allowances and privileges. -**

- (1) If a retired Judge of a High Court is appointed as Chairperson, he shall be entitled to such salary, allowances and privileges as are admissible vide Establishment Division's O.M. No. 10/52/95-R.2 dated the 18<sup>th</sup> July, 1996, as amended from time to time.
- (2) The salary and allowances of the Members shall be the same, as admissible to a BS-20 or 21 officer, depending upon his qualification and experience with the prior approval of Finance Division.

**6. Staff of the Tribunal. -**

- (1) The staff of the Tribunal shall be such as set out in the Schedule I to these rules.
- (2) The terms and conditions of service of the staff of the Tribunal shall be the same as of civil servants of corresponding basic pay scales under Federal Government and they shall be governed by the Civil Servants Act, 1973 (LXXI of 1973), and rules made thereunder.

**7. Appellate powers of the Tribunal. -**

- (1) Where seized of any matter in appeal the Tribunal shall have powers to uphold, set aside, reverse or modify the judgement or order impugned before it or remand the same to the original forum with any direction deemed proper.
- (2) An appeal filed before it, the Tribunal shall hear the same in motion and may admit for regular hearing and issue notice to the respondents or dismiss it in *limine*.

**8. Recovery of fine. -**

Where an accused is convicted and sentenced to fine payable within a time fixed by the Tribunal and the accused fails to deposit the fine, the Tribunal may cause the arrest of the convict and may commit him to jail for a period not exceeding six months or till the realization of fine whichever is earlier. The fine imposed by the Tribunal is recoverable as arrear of the land revenue.

**9. Withdrawal of cases. -**

The offences under this Act shall be non-compoundable, however, the prosecutor may with the consent of the Tribunal before the judgement is announced, withdraw from the prosecution of any person and upon such withdrawal;

- (a) If it is made after the charge has been framed, the accused shall be discharged of the offence.
- (b) If it is made after the charge has been framed or where of charge is not required, he shall be acquitted of the offence.
- (c) If the withdrawal is sought on some account of technical defect the complaint may be dismissed as withdrawn and permission may be granted to file the complaint afresh.

**10. Statement of cases. -**

The Director Generals of the Federal Agency and Provincial Agencies shall submit to the Tribunal detailed monthly statement showing total number of cases involving environmental violations found, registered, investigated, controlled, stopped, eliminated, disposal of and challaned with steps taken and measures adopted under section 16 of the Act.

**11. Submission of Challan. -**

- (1) The Director Generals of the Federal Agency and Provincial agencies shall through prosecutor submit complete challan to the Tribunal as early as possible not later than thirty days of the registration of the environmental violation complaint. A delayed submission of challan before the Tribunal shall require the Director General to state reasons thereof. The court may extend the time to complete the challan upto ninety days, in case of complex, complicated nature and where violation is spread to large area, the court may fine Director General or Agency not exceeding one hundred thousand rupees where the challan has been unnecessarily delayed.
- (2) For insufficient reasons for the violation of rule (1) the Tribunal shall recommend the disciplinary action under Act or the rules made thereunder against the responsible officer or official as the case may be.

**12. Disposal of cases by the Tribunal. -**

On receipt of the case the Tribunal shall make all efforts to decide the case within ninety days. For the attendance of the witnesses and production of evidence, all coercive measures available to the Tribunal may be exercised including issuance of non bailable warrants of arrest.

**13. Seal of the Tribunal.**

- (1) There shall be a seal of the Tribunal which shall indicate the name of the Tribunal.
- (2) The seal shall remain in the custody of the Registrar or such other officer as the Chairperson may direct, and shall be affixed on every order passed by the Tribunal. Recess as is observed by the High Court of the province in which the Tribunal is situated.

**14. Timings and holidays. -**

The Tribunal shall observe the same timing including recess and holidays as observed by the High Court of the respective province

**15. Dress. -**

The Chairperson and Members of the Tribunal shall wear the same dress during working hours as Federal Government may from time to time, prescribe.

**16. Language. -**

The language of the Tribunal shall be English but Urdu or any other regional language may be used subject to permission of the Tribunal.

**17. Cause List. -**

A daily cause list shall be prepared under the orders of the Register which shall be affixed on the notice board of the Tribunal a day before the date of hearing.

**18. Appeal. -**

- (1) An appeal to the Environmental Protection Tribunal under section 22, in a form of a memorandum, shall be prepared in triplicate, and sent to the Registrar by registered post acknowledgment due, or presented to him during office hours either by the appellant personally or by his counsel.
- (2) The appeal shall be accompanied by –
  - (i) a copy of the impugned order;
  - (ii) copies of all documents on which the appellant relies; and
  - (iii) fees, as prescribed in Schedule III.

**19. Proceedings open to public. -**

All proceedings before the Tribunal shall be open to the public:

*Provided that the Tribunal may restrict entry of public during hearing of cases involving information covered by clauses (i), (ii) and (iii) of sub-section (3) of section 12 of the Act.*

**20. Dismissal of complaint for failure of producing evidence. -**

If the complainant or the Agency, as the case may be fails to produce the evidence despite availing reasonable opportunity the Tribunal may dismiss the complaint for want of evidence.

**21. Service of Process. -**

- (1) Any process issued by the Tribunal against a person residing within its territorial jurisdiction shall be served through bailiff or registered post acknowledgement due or by publication in newspaper or through S.H.O. of Police Station, within whose jurisdiction the person, corporate body person or any other authority process intended to be served, resides, carry on business or works for gain, shall be bound to effect service on the person in whose name the process is issued by the Tribunal.
- (2) The S.H.O. of police station concerned shall also be responsible for executing any warrant of arrest against any person within his jurisdiction.

**22. Assistance of Police. -**

For the purpose of implementation of any order or judgement of the Tribunal by the Federal Agency or Provincial Agency, the police shall render all possible assistance to the functionaries of the Tribunal or Agency as the case may be.

**23. Reconstruction of Record. -**

In the event when the judicial record of any case is lost, destroyed or damaged, the Chairperson may order the reconstruction of the file from the record maintained by the Director General Agency or any other source available and helpful in that regard. Such reconstruction of record shall be valid for all purposes.

**24. Benches. -**

The powers and formation of the Tribunal shall be exercised or performed by a bench which may consist of the Chairperson and at least one other Member.

**25. Transfer of cases. -**

The Chairperson may, at any stage of proceedings of a case and for reasons to be duly recorded withdraw the case from the bench before which it is pending and entrust it to another bench.