

Balochistan Environmental Tribunal Rules 2020

1. **Short title and commencement.**- (1) These rules may be called the Environmental Tribunal Rules, 1999.

(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 Balochistan Environmental Protection Act, 2012 (XXXIV of 2012);

(b) “Bench” means a bench of tribunal comprising the Chairperson and at least one other Member;

(c) “Chairperson” means Chairperson of the Tribunal;

(d) “Corporation service” means employment in a corporation or other body set up, established, owned, managed or controlled by the Provincial or a Provincial Government;

(e) “Director General” means the Director-General of the Provincial Agency;

(f) “Member” means member of the Tribunal;

(g) “Registrar” means the Registrar of the Tribunal;

(h) “Section” means a section of the Act;

(i) “Service of Balochistan” shall have the same meaning as defined clause (1) of Article 260 of the Constitution of the Islamic Republic of Balochistan, 1973;

(j) “Tribunal” means Environment Tribunal established under subsection (1) of section 20 of the Act and includes a Bench

(2) All other words and expressions used in these rules but not defined shall have the same meanings as are assigned to them in the Act.

3. Term of office of Chairperson and Members.

(1) The term of office of the Chairperson and Members shall not exceed three years:

Provided that the Provincial Government may extend the term of office of the Chairperson or any Member for such period, not exceeding three years, as it may deem fit.

Provided further that a Member, who immediately before his appointment was holding a post in the service of Balochistan, may be transferred in public interest before the expiry of his term of office.

(2) The Chairperson or Member may resign his office by writing under his hand addressed to the Provincial Government.

(3) The Chairperson or a Member shall only be removed from office except in the manner applicable to like a Judge of the High Court.

(4) The Chairperson or a Member shall not hold any other office in the service of Balochistan if his remuneration is thereby increased.

4. Qualification of Member.

(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/Mechanical/Industrial Engineering; or a second-class M. Sc. Degree in Physics/ Chemistry / Biology / Chemical technology / Environmental Planning and Management/ Bio-Chemistry; and

- (b) 17 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 third Member of the Tribunal, if not also a Technical Member, shall be person who has, for a period of not less than 10 years held an appointment or post in the service of Balochistan, or in Corporation service, or who for the said period, has been an advocate of a High Court.

5. Salary, allowances and privileges.

(1) If a retired Judge of the High Court is appointed as Chairperson, he shall be entitled to such salary, allowances and privileges as are admissible to him as such Judge.

(2) If a retired Judge of the High Court is appointed as Chairperson, he shall be entitled to such salary, allowances and privileges as would be admissible to him had he been a Judge of the High Court from which he retired and had been transferred to a bench other than at the principal seal of that High Court.

(3) If a person who is in the service of Balochistan or in Corporation service is appointed as Member, he shall be entitled to the same salary, allowances and privileges as are admissible to him in such service. Provided that if such person is promoted to a higher grade after his appointment as Member, he shall be entitled, from the date of such promotion, to the salary, allowances and privileges admissible to him in the higher grade.

(4) If a person who has retired from the service of Balochistan or from Corporation service is appointed as Member, he shall draw such salary and allowances and be allowed such privileges as are admissible to him under the rules applicable to such retired person on employment.

(5) If a person who is not a serving or retired Judge of the High Court is appointed as Chairperson, or a person who is not in, or retired from the service of Balochistan or from corporation service is appointed as Member, he shall draw salary and allowances and be allowed privileges in accordance with the contract relating to the terms and conditions of his appointment.

Provided that in the case of the Chairperson, such salary, allowances and privileges shall not be less than are admissible to a Judge of the High Court:

Provided further that in case of a Member, such salary, allowances and privileges shall not be less than are admissible to an officer in Basic Scale 21

(6) The terms and conditions of service of the Chairperson or a Member shall not be varied to the disadvantage of the Chairperson or Member during his term of office.

6. Oath of office.

Before entering upon his office, a Chairperson who is not a serving Judge of the High Court, and a Member shall make an oath, in the form prescribed in schedule I, before the Chief Justice of the High Court or a Judge nominated by the Chief Justice for the purpose.

7. Benches of the Tribunal.

The powers and functions of the Tribunal may be exercised or performed by Bench.

8. Transfer of cases.

The Chairperson may, at any stage of hearing of a case, withdraw it from the Bench before which it is pending and entrust it to another.

9. Staff of the Tribunal.

(1) Staff of the Tribunal shall be as set out in Schedule II.

(2) The terms and conditions of service of the staff of the Tribunal shall be the same as of civil servants of corresponding grade under Government, and they shall be governed by the Civil Servants Act, 1973 (LXXI of 1973), and the rules made thereunder.

(3) Notwithstanding the provisions of sub-rules (1) and (2), where a Judge of the High Court or the Presiding Officer of an existing Court or Tribunal is appointed as Chairperson in addition to his own duties, the duties and functions of the staff of the Tribunal may be assigned to existing staff of the High Court or such Court or Tribunal.

10. Seal of the Tribunal.

(1) There shall be a seal of the Tribunal which shall indicate the name of the Tribunal and its insignia.

(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.

(3) Every notice issued on behalf of the tribunal shall be signed by the Registrar or other officer duly authorized in this behalf by the Chairman and shall bear the seal of the Tribunal;

11. Dress, office hours and holidays.

(1) The Chairperson and Members shall wear the same dress as prescribed for Judges of the High Court.

(2) The Tribunal shall, subject to any special order of the Chairperson, observe the same office hours, holidays and periods of recess as the High Court of the Province in which it is situate.

12. Language.

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

13. Application of Code of Criminal Procedure, 1898.

The Code of Criminal Procedure, 1898 (Act V of 1898) shall apply to proceedings before the Tribunal relating to trial of offences under section 17.

14. Cause List.

(1) A daily Cause List shall be prepared under the orders of the Register which shall be affixed on the notice board of the court room of the Tribunal.

(2) Except as otherwise directed by the Tribunal, cases shall be set down in the Cause List in the order of the date of admission.

15. Copies of orders and record.

(1) The Tribunal shall, after passing and signing any final order in any case, cause certified copies thereof to be sent under registered post acknowledgement due to the parties concerned and to the Director General of the Provincial Agency and of the Provincial Agency concerned.

(2) Any party appeal may obtain additional copies of the order on payment of such fees as the Tribunal may fix from time to time.

16. Expeditious disposal.

The Tribunal shall make every effort to dispose of a complaint or an appeal or other proceedings within 60 days of its filing.

Provided that a decision of the Tribunal shall not be rendered invalid by reason of any delay in its delivery.

17. Appeals.

(1) An appeal to the Environmental tribunal under section 22, in a form of a memorandum, shall be prepared in triplicate, and sent to the Registrar by registered post acknowledgement 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. 18. 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.

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SCHEDULE 1

(See Rule 6)

Oath of Chairperson and Members

I, _____ do solemnly swear that a Chairperson/Member of an Environmental Tribunal established under the Balochistan Environmental Protection Act, 1977, I will discharge my duties and perform my functions honestly to the best of my ability, faithfully in accordance with the Constitution of the Islamic Republic of Balochistan, 1973 and the law, and without fear of favour, affection or ill-will, and that I will not allow my personal interest to influence my official conduct or my official decisions.

SCHEDULE II

[See Rule 9(1)]

Staff of the Tribunal

SCHEDULE III

[See Rule 16(2)(iii)]

Fees for Appeals