

Tribunal [Sec 2(90)]

Sec 2(90): “Tribunal” means the National Company Law Tribunal constituted under section 408.

1. Tribunal and its constitution

“Tribunal” means the National Company Law Tribunal constituted under section 408. The definition of ‘Tribunal’ was inserted by the Companies (Second Amendment) Act, 2002 in the Companies Act, 1956. There are no significant changes in the definition.

The definition has not undergone any change in the new Act whereas the constitution of the NCLT has been changed in the new Act. Under the Companies Act, 1956, NCLT constituted of a President and such number of Judicial and Technical Members not exceeding sixty-two, as the Central Government deems fit, whereas in Companies Act, 2013, NCLT constitutes of a President and such number of Judicial and Technical Members, as the Central Government may deem necessary.

The Ministry of Corporate Affairs vide its notification S.O. 1932(E) dated 01.06.2016 has constituted NCLT to exercise and discharge the powers and functions as are, or may be, conferred on it by or under the said Act with effect from the 01.06.2016.

2. Powers of the Tribunal under the Act

Section 430 provides that Tribunal has powers only under specified sections and not as a court of residuary jurisdiction. The Tribunal has been given powers to decide various matters under the following provisions of the Act:

Sr. No.	Provision	Power
1.	Sub-section (7) of section 7	Powers of the Tribunal to give various orders for regulation or winding up of company when the company has been incorporated by furnishing false or incorrect information or by suppressing material facts
2.	Sub-section (9) of section 8	Powers to impose conditions for disposal surplus remaining after the winding up of a section 8 company
3.	Proviso to sub-section (1) of section 14	Power to approve the alteration in articles having the effect of conversion of a public company into a private company
4.	Sub-section (2) of section 48	Power to set aside the variation of shareholders’ rights

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5.	Sub-section (3) of section 55	Power to approve the redemption of unredeemed preference shares by issuing further preference shares
6.	Sub-section (5) of section 58	Powers to direct registration of transfer of transmission or rectification of register in case of refusal to register the transfer
7.	Sub-section (2) and (4) of section 59	Powers for rectification of register of members
8.	Proviso to clause (b) of sub-section (1) of section 61	Power to approve the consolidation or division which changes the voting percentage of shareholders
9.	Sub-section (4) of section 62	Power to pass orders as it deems fit for conversion of Government owned debentures or loan given by Government into equity
10.	Sub-section (1) of section 66	Power to approve the reduction of share capital
11.	Sub-section (9) and (10) of section 71	Powers to grant relief in case of inability to redeem debentures
12.	Sub-section (4) of section 73	Powers of Tribunal to direct the company to pay sum due for any loss incurred by depositor
13.	Sub-section (2) of section 74	Powers of Tribunal to extend the time for repayment of deposit
14.	Sub-section (1) of section 97	Power of Tribunal to call annual general meeting
15.	Sub-section (1) of section 98	Power of Tribunal to call meetings other than annual general meeting
16.	Sub-section (4) of section 119	Power to direct immediate inspection of minutes book
17.	Sub-section (1) of section 130	Power to order re-opening of books of accounts or re-casting of financial statements in case of preparation in fraudulent manner or mismanagement of the affairs of the company
18.	Sub-section (1) of section 131	Power to approve the voluntary reopening of books of accounts or recasting of financial statements
19.	Second proviso to sub-section (4) of section 140	Powers to waive the requirement of circulation of representation of the auditor sought to be removed
20.	Sub-section (5) of section 140	Power to direct the company to change the auditors
21.	Second proviso to sub-section (4) of section 169	Power to waive the requirement of circulation of representation of the director sought to be removed
22.	Section 213	Powers to order investigation into affairs of the company

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23.	Sub-section (1) of section 218	Powers to approve the action against the employee during the course of investigation by the company
24.	Sub-section (1) of section 221	Powers to freeze the assets of the company during inquiry and investigation
25.	Sub-section (1) of section 222	Imposing restriction on the securities of the company during investigation
26.	Sub-section (1) of section 230	Powers to call a meeting to consider compromise or arrangement with the creditors or members or any class of them
27.	Sub-section (6) and (7) of section 230	Power to approve the compromise or arrangement by an order
28.	Sub-section (12) of section 230	Powers to grant relief in case of takeover offer of companies other than listed companies
29.	Sub-section (1) and (2) of section 231	Power to supervise and enforce contract or arrangement
30.	Sub-section (1) and (3) of section 232	Powers to approve merger and amalgamation
31.	Sub-section (2) of section 235	Power to grant relief to the minority shareholders where their shares are proposed to be acquired by the majority
32.	Sub-section (4) of section 237	Power to hear appeals regarding compensation in case of amalgamation of companies in public interest
33.	Sub-section (2) of section 238	Power to hear appeal against the order of Registrar refusing to register the scheme for transfer of shares
34.	Sub-section (1) and (2) of section 242	Granting of relief in case of oppression and mismanagement
35.	Sub-section (1) of section 244	Powers to waive the requirement of minimum members to apply under section 241
36.	Sub-section (1) of section 245	Power to hear and pass orders for class action suits
37.	Sub-section (1) and (3) of section 252	Power to hear appeals against removal of name and order restoration of name of company
38.	Sub-section (7) of section 253	Determination of sickness
39.	Sub-section (1) of section 256	Appointment of interim administrator
40.	Section 258	Appointment of company administrator or ordering of winding up
41.	Section 259	Directions for appointment and incidental matters of a company administrator
42.	Sub-section (1) of section 262	Power to extend the date for placing the scheme for approval of creditors

Sr. No.	Provision	Power
43.	Sub-section (3) and (4) of section 262	Sanction of scheme for rehabilitation
44.	Sub-section (6) of section 262	Power to modify the scheme
45.	Section 264	Powers related to implementation of rehabilitation scheme including the power to enforce, modify or terminate contracts entered into by the company, application of sale proceeds, modification of scheme and winding up
46.	Section 265	Winding up of company on the report of company administrator
47.	Sub-section (1) and (2) of section 266	Power of Tribunal to assess damages against delinquent director, manager, employee or officer of the company and issue of directions to stop financial assistance to such person for a period up to 10 years
48.	Sub-section (3) of section 269	Power to allow withdrawal from Rehabilitation and Insolvency Fund up to the amount contributed by the company
49.	Part I of Chapter XX- Section 271 to section 303	Winding up by the Tribunal
50.	Sub-section (1) of section 317	Ordering of investigation under section 210 upon the report of the Company Liquidator
51.	Sub-section (5) of section 318	Passing of order of dissolution of the company after the report of the Company Liquidator
52.	Sub-section (2) of section 321	Power to set aside, amend, vary or confirm the arrangement referred in section 319
53.	Sub-section (3) of section 322	Power of Tribunal to decide the questions arising in course of winding up of the company
54.	Section 328	Power to set aside transactions amounting to fraudulent preference
55.	Sub-section (3) and (4) of section 331	Power to decide the liabilities in reference to fraudulent preference
56.	Sub-section (1), (3), (5) and (6) of section 333	Power to allow disclaimer of property
57.	Sub-section (2) of section 334	Power to allow the transfer of property after the commencement of winding up
58.	Sub-section (1) and (2) of section 339	Power to charge a director, manager, officer or any other person who was knowingly a party to the carrying on of business of the company in a fraudulent manner with unlimited liability

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Sr. No.	Provision	Power
59.	Sub-section (1) and (2) of section 340	Power to assess damages against a delinquent person
60.	Sub-section (1) and (4) of section 342	Power to direct the liquidator to prosecute the officer or member of the company who is guilty of an offence relating to a company
61.	Sub-section (1) and (3) of section 343	Power to sanction the exercise of certain powers by the Company Liquidator
62.	Sub-section (1) of section 347	Power to direct the disposal of books and papers of the company wound up by the Tribunal
63.	Section 350	Power to permit the opening of bank account with any specified bank and to authorize the retention of money by Liquidator
64.	Sub-section (1) of section 353	Power to direct the company liquidator to make good the default in filing the returns etc. required to be filed
65.	Sub-section (1) of section 354	Power to direct the meetings of the creditors and contributories
66.	Sub-section (1) of section 356	Power to declare the dissolution of the company to be void
67.	Sub-section (4) of section 364	Powers to pass necessary orders in respect of appeals against the decisions of Official Liquidator under section 363
68.	Section 373	Power to grant leave for commencement or proceeding of a suit or other legal proceeding against the company
69.	Sub-section (3) and (4) of section 375	Powers with respect to winding up of unregistered companies
70.	Sub-section (2) of section 399	Power to issue process for compelling the production of document kept by the Registrar
71.	Sub-section (1) of section 424	Power to regulate their own procedure
72.	Section 425	Power to punish for contempt
73.	Sub-section (1) of section 429	Power to seek assistance of Chief Metropolitan Magistrate or District Collector
74.	Sub-section (1) of section 441	Power to compound offences punishable with fine of more than Rs. 5 lacs
75.	Sub-section (2) and (3) of section 442	Reference of matter to Mediation and Conciliation Panel

Contents of Geeta Saar, as extracted from ICSI Premier on Company Law, is as per notified law as on 30th September, 2016.