

## **Biological Diversity Act, 2002**

### **Chapter 2 - Regulation of Access to Biological Diversity**

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(1) No person referred to in sub-section (2) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation.

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) are the following, namely:--

(a) a person who is not a citizen of India;

(b) a citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income-tax Act, 1961 (43 of 1961);

(c) a body corporate, association or organisation--

(i) not incorporated or registered in India; or

(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

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### **Section 4 - Results of research not to be transferred to certain persons without approval of National Biodiversity Authority**

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No person shall, without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring in, or obtained from, India for monetary consideration or otherwise to any person who is not a citizen of India or citizen of India who is non-resident as defined in clause (30) of section 2 of the Income-tax Act, 1961(43 of 1961) or a body corporate or organisation which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management.

Explanation.--For the purposes of this section, "transfer" does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.

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### **Section 5 - Sections 3 and 4 not to apply to certain collaborative research projects**

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(1) The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).

(2) All collaborative research projects, other than those referred to in sub-section (1) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub-section (3), be void.

(3) For the purposes of sub-section (1), collaborative research projects shall--

(a) conform to the policy guidelines issued by the Central Government in this behalf;

(b) be approved by the Central Government.

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## **Section 6 - Application for intellectual property rights not to be made without approval of National Biodiversity Authority**

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(1) No person shall apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application:

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned:

Provided further that the National Biodiversity Authority shall dispose of the application for permission made to it within a period of ninety days from the date of receipt thereof.

(2) The National Biodiversity Authority may, while granting the approval under this section, impose benefit sharing fee or royalty or both or impose conditions including the sharing of financial benefits arising out of the commercial utilisation of such rights.

(3) The provisions of this section shall not apply to any person making an application for any right under any law relating to protection of plant varieties enacted by Parliament.

(4) Where any right is granted under law referred to in sub-section (3), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

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## **Section 7 - Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes**

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No person, who is a citizen of India or a body corporate, association or organisation which is registered in India, shall obtain any biological resource for commercial utilisation, or bio-survey and bio-utilisation for commercial utilisation except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and vaid and hakims, who have been practising indigenous medicine.