The Biological Diversity Act, 2002

Act 18 of 2003. 72 sections. Bare Act with the official footnotes.

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Every section online, with the old and new law side by side and exam questions:
https://www.lawmaker.in/bare-acts/biological-diversity-act-2002

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[5th February, 2003.]

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

WHEREAS India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto.

AND WHEREAS India is a [Party] to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June, 1992;

AND WHEREAS the said Convention came into force on the 29th December, 1993;

AND WHEREAS the said Convention reaffirms the sovereign rights of the States over their biological resources;

AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilisation of genetic resources;

[AND WHEREAS India is a Party to the Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation to the convention on Biological Diversity which was adopted on the 29th October, 2010 in Nagoya, Japan;

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilisation, fair and equitable sharing of the benefits arising out of utilisation of biological resources and also to give effect to the said Convention.]

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

Section 1. Short title, extent and commencement

(1) This Act may be called the Biological Diversity Act, 2002.

(2) It extends to the whole of India.

(3) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

[1] 1st October, 2003 (Ss. 1, 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 48, 54, 59, 62, 63, 64, 65), vide notification No. S.O. 1146(E), dated 1st October, 2003, see Gazette of India, Extraordinary, Part II, sec. 3(ii). 1st July, 2004 (Ss. 3, 4, 5, 6, 7, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 53, 55, 56, 57, 58, 60, 61), vide notification No. S.O. 753(E), dated 1st July, 2004, see Gazette of India, Extraordinary, Part II, sec. 3(ii).

Section 2. Definitions

In this Act, unless the context otherwise requires,-

[1][(a) "access" means collecting, procuring or possessing any biological resource occurring in or obtained from India or traditional knowledge associated thereto, for the purposes of research or bio-survey or commercial utilisation;

(aa) "benefit claimers" means the conservers of biological resources, their by-products, creators or holders of traditional knowledge associated thereto (excluding codified traditional knowledge only for Indians) and information relating to the use of such biological resources, innovations and practices associated with such use and application;]

(b) "biological diversity" [2][or "biodiversity"] means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;

[3][(c) "biological resources" include plants, animals, micro-organisms or parts of their genetic material and derivatives (excluding value added products), with actual or potential use or value for humanity, but does not include human genetic material;]

(d) "bio-survey and bio-utilisation" means survey or collection of species, sub-species, genes, components and extracts of biological resource for any purpose and includes characterisation, inventorisation and bioassay;

(e) "Chairperson" means the Chairperson of the National Biodiversity Authority or, as the case may be, of the State Biodiversity Board;

[2][(ea) "codified traditional knowledge" means the knowledge derived from authoritative books specified in the First Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940);]

(f) "commercial utilisation" means end uses of biological resources for commercial utilisation such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;

[2][(fa) "derivative" means a naturally occurring biochemical compound or metabolism of biological resources, even if it does not contain functional units of heredity;]

(g) "fair and equitable benefit sharing" means sharing of benefits as determined by the National Biodiversity Authority under section 21;

[2][(ga) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;

(gb) "India" means the territory of India as referred to in Article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as refferred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, and the air space above its territory (80 of 1976);

(gc) "landrace" means primitive cultivar that was grown by ancient farmers and their successors;]

(h) "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act;

(i) "member" means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;

[2][(ia) "Member-Secretary" means the full time Secretary of the National Biodiversity Authority, or of the State

Biodiversity Board, as the case may be;]

(j) "National Biodiversity Authority" means the National Biodiversity Authority established under section 8;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "regulations" means regulations made under this Act;

(m) "research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;

(n) "State Biodiversity Board" means the State Biodiversity Board established under section 22;

(o) "sustainable use" means the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;

(p) "value added products" means products which may contain portions or extracts of plants and animals in unrecognizable and physically inseparable form.

[1] Subs. by Act 10 of 2023, s. 3, for clause (a) (w.e.f. 1-4-2024).

[2] Ins. by Act 10 of 2023, s. 3, (w.e.f. 1-4-2024).

[3] Subs. by s. 3, ibid., for clause (c) (w.e.f. 1-4-2024).

CHAPTER II REGULATION OF ACCESS TO BIOLOGICAL RESOURCES

Section 3. Certain persons not to undertake Biodiversity related activities without approval of National Biodiversity Authority

(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

[1][(ii) incorporated or registered in India under any law for the time being in force, which is controlled by a foreigner within the meaning of clause (27) of section 2 of the Companies Act, 2013 (18 of 2013).]

[1] Subs. by s. 5, ibid., for sub-clause (ii) (w.e.f. 1-4-2024).

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

[1][No person or entity shall share or transfer any result of the research on any biological resource occurring in, or obtained or accessed from, India or traditional knowledge associated thereto, for monetary consideration or otherwise, to a person or body corporate referred to in sub-section (2) of section 3, without the prior written approval of the National Biodiversity Authority, except the codified traditional knowledge which is only for Indians:

Provided that the provisions of this section shall not apply if publication of research papers or dissemination of knowledge in any seminar or workshop involving financial benefit is as per the guidelines issued by the Central Government:

Provided further that where the results of research are used for further research, then, the registration with the National Biodiversity Authority shall be necessary:

Provided also that if the results of research are used for commercial utilisation or for obtaining any intellectual property rights, within or outside India, prior approval of the National Biodiversity Authority shall be required to be taken in accordance with the provisions of this Act.]

[1] Subs. by s. 6, ibid., for section 4 (w.e.f. 1-4-2024).

Section 5. [1][Certain provisions] not to apply to certain collaborative research projects

[2][(1) The provisions of section 3 shall not apply to collaborative research projects involving transfer or exchange of biological resource or traditional knowledge associated 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.

[1] Subs. by s. 7, ibid., for "Sections 3 and 4" (w.e.f. 1-4-2024).
[2] Subs. by s. 7, ibid., for sub-section (1) (w.e.f. 1-4-2024).

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

[1][(1) Any person or entity covered under sub-section (2) of section 3 applying for an intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall obtain prior approval of the National Biodiversity Authority before grant of such intellectual property rights.

(1A) Any person covered under section 7 applying 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 which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall register with the National Biodiversity Authority before grant of such intellectual property rights.

(1B) Any person covered under section 7 who has obtained intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall obtain prior approval of the National Biodiversity Authority at the time of commercialisation.]

(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 [2]***.

(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.

[1] Subs. by Act 10 of 2023, s. 8, for sub-section (1) (w.e.f. 1-4-2024).
[2] The words "enacted by the Parliament" omitted by s. 8, ibid., (w.e.f. 1-4-2024).

Section 7. Prior intimation to State Biodiversity Board for accessing biological resource for certain purposes

[1][(1) No person, other than the person covered under sub-section (2) of section 3, shall access any biological resource and its associated knowledge for commercial utilisation, without giving prior intimation to the concerned State Biodiversity Board, but such access shall be subject to the provisions of clause (b) of section 23 and sub-section (2) of section 24:

Provided that the provisions of this section shall not apply to the codified traditional knowledge, cultivated medicinal plants and its products, local people and communities of the area, including growers and cultivators of biodiversity and to vaids, hakims and registered AYUSH practitioners only who have been practicing indigenous medicines, including Indian systems of medicine as profession for sustenance and livelihood.

(2) In the case of cultivated medicinal plants, the exemption under sub-section (1) shall be available only if a certificate of origin is obtained from the Biodiversity Management Committee in such manner as may be prescribed.

(3) The Biodiversity Management Committee shall, on the basis of entries made in such books, maintained in such manner, issue the certificate of origin under subsection (2) in such manner as may be prescribed.]

[1] Subs. by s. 9, ibid., for section 7 (w.e.f. 1-4-2024).

CHAPTER III NATIONAL BIODIVERSITY AUTHORITY

Section 8. Establishment of National Biodiversity Authority

(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established by the Central Government for the purposes of this Act, a body to be called the National Biodiversity Authority.

(2) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

[1][(3) The head office of the National Biodiversity Authority shall be at Chennai and the National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.]

(4) The National Biodiversity Authority shall consist of the following members, namely:-

[2][(a) a Chairperson, who shall be an eminent person having adequate knowledge, expertise and experience in the conservation and sustainable use of biological diversity and in matters relating to fair and equitable sharing of benefits, to be appointed by the Central Government;

(b) sixteen ex officio members to be appointed by the Central Government, representing the Ministries dealing with-

(i) Agricultural Research and Education;

(ii) Agriculture and Farmers Welfare;

(iii) Ayurveda, Unani, Siddha, Sowa Rigpa, Yoga and Naturopathy and Homoeopathy;

(iv) Biotechnology;

(v) Environment and Climate Change;

(vi) Forests and Wildlife;

(vii) Indian Council of Forestry Research and Education;

(viii) Earth Sciences;

(ix) Panchayati Raj;

(x) Science and Technology;

(xi) Scientific and Industrial Research;

(xii) Tribal Affairs;

(c) four representatives from State Biodiversity Boards on rotational basis;]

(d) five non-official members to be appointed from amongst [3][experts including legal experts] and scientists having special knowledge of, or experience in, matters relating to conservation of biological diversity, sustainable use of biological resources and [4][fair and equitable] sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge-holders of biological resources.

[5][(e) a Member-Secretary, who shall have experience in matters relating to biodiversity conservation, to be appointed by the Central Government.]

[1] Subs. by Act 10 of 2023, s. 10, for sub-section (3) (w.e.f. 1-4-2024).
[2] Subs. by s. 10, ibid., for clauses (a), (b) and (c) (w.e.f. 1-4-2024).
[3] Subs. by s. 10, ibid., for "specialists" (w.e.f. 1-4-2024).
[4] Subs. by s. 10, ibid., for "equitable" (w.e.f. 1-4-2024).
[5] Ins. by Act 10 of 2023, s. 10 (w.e.f. 1-4-2024).

Section 9. Conditions of service of [1][Chairperson, members and Member-Secretary.]

The term of office and conditions of service of the Chairperson and the other members other than ex officio members of the National Biodiversity Authority [2][and of Member-Secretary] shall be such as may be prescribed by the Central Government.

[1] Subs. by s. 11, ibid., for "Chairperson and members" (w.e.f. 1-4-2024).
[2] Ins. by s. 11, ibid. (w.e.f. 1-4-2024).

Section 10. Chairperson to be Chief Executive of National Biodiversity Authority

The Chairperson shall be the Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties, as may be prescribed.

Section 10A. Member Secretary

[1][(1) The Member-Secretary shall be the chief coordinating officer and the convener of the National Biodiversity Authority and shall assist that Authority in the discharge of its functions under this Act.

(2) The Member-Secretary shall perform such other functions as may be prescribed.]

[1] Ins. by s. 12, ibid. (w.e.f. 1-4-2024).

Section 11. Removal of members

The Central Government may remove from the National Biodiversity Authority any member who, in its opinion, has-

(a) been adjudged as an insolvent; or

(b) been convicted of an offence which involves moral turpitude; or

(c) become physically or mentally incapable of acting as a member; or

(d) so abused his position as to render his continuance in office detrimental to the public interest; or

(e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

Section 12. Meetings of National Biodiversity Authority

(1) The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.

(2) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority.

(3) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority, any member of the National Biodiversity Authority chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the National Biodiversity Authority shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(6) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the National Biodiversity Authority; or

(b) any defect in the appointment of a person acting as a member; or

(c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

Section 13. Committees of National Biodiversity Authority

(1) The National Biodiversity Authority may constitute a committee to deal with agro-biodiversity.

Explanation.-For the purposes of this sub-section, "agro-biodiversity" means biological diversity of agriculture related species and their wild relatives.

[1][(2) The National Biodiversity Authority may also constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.]

(3) A committee constituted under this section shall co-opt such number of persons, who are not the members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(4) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

[1] Ins. by Act 10 of 2023, s. 13 (w.e.f. 1-4-2024).

Section 14. Officers and employees of National Biodiversity Authority

(1) The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.

Section 15. Authentication of orders and decisions of National Biodiversity Authority

All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson [1][or Member-Secretary] or any other member authorised by the National Biodiversity Authority in this behalf and all other instruments executed by the National Biodiversity Authority shall be authenticated by the [2][signature of Member-Secretary or an officer] of the National Biodiversity Authority authorised by it in this behalf.

[1] Ins. by s. 14, ibid. (w.e.f. 1-4-2024).

[2] Subs. by s. 14, ibid., for "signature of an officer" (w.e.f. 1-4-2024).

Section 16. Delegation of powers

The National Biodiversity Authority may, by general or special order in writing, delegate to any member [1][or Member-Secretary], officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an appeal under section 50 and the power to make regulations under section 64) as it may deem necessary.

[1] Ins. by s. 15, ibid. (w.e.f. 1-4-2024).

Section 17. Expenses of National Biodiversity Authority to be defrayed out of the Consolidated Fund of India

The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

CHAPTER IV FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

Section 18. Functions and powers of National Biodiversity Authority

[1][(1) The National Biodiversity Authority shall, with the approval of the Central Government, make regulations to provide for access to biological resources and traditional knowledge associated thereto, and for determination of fair and equitable sharing of benefits.

(2) It shall be the duty of the National Biodiversity Authority to regulate any activity referred to in sections 3, 4 and 6 by granting or rejecting approvals.]

(3) The National Biodiversity Authority may-

(a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and [2][fair and equitable] sharing of benefits arising out of the utilisation of biological resources;

(b) advise the State Governments in the selection of areas of biodiversity importance to be notified under sub-section (1) of section 37 as [3][biodiversity heritage sites] and measures for the management of such heritage sites;

[4][(ba) advise the State Biodiversity Boards on any matter relating to the implementation of the Act;]

(c) perform such other functions as may be necessary to carry out the provisions of this Act.

[5][(4) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource which is found in or brought from India, including those deposited in repositories outside India, or traditional knowledge associated thereto accessed.]

[1] Subs. by s. 16, ibid., for sub-sections (1) and (2) (w.e.f. 1-4-2024).

[2] Subs. by Act 10 of 2023, s. 16, for "equitable" (w.e.f. 1-4-2024).

[3] Subs. by s. 16, ibid., for "heritage sites" (w.e.f. 1-4-2024).

[4] Ins. by s. 16, ibid. (w.e.f. 1-4-2024).

[5] Subs. by s. 16, ibid., for sub-section (4) (w.e.f. 1-4-2024).

CHAPTER V APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY

Section 19. Approval by National Biodiversity Authority for undertaking certain activities

(1) Any person referred to in sub-section (2) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation or transfer the results of any research relating to biological resources occurring in, or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

[1][(2) Any person referred to in sub-section (2) of section 3 who intends to apply for a patent or any other form of

intellectual property rights, whether in India or outside India, referred to in sub-section (1) of section 6, may make an application to the National Biodiversity Authority in such form, on payment of such fee, and in such manner, as may be prescribed.

(2A) Any person referred to in sub-section (1A) of section 6 shall register with the National Biodiversity Authority at the time of making application under sub-section (2), and persons referred to in sub-section (1B) of section 6 shall obtain prior approval from the National Biodiversity Authority at the time of commercialisation.]

(3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

[2][(3A) The National Biodiversity Authority shall, while granting approval under this section, determine the benefit sharing in such manner as may be specified by regulations made in this behalf:

Provided that if the National Biodiversity Authority is of the opinion that such an activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or fair and equitable sharing of benefits arising out of such activity, it may, by order, for reasons to be recorded in writing, prohibit or restrict any such activity:

Provided further that no such order for rejection shall be made without giving an opportunity of being heard to the person concerned.]

[3][(4) The National Biodiversity Authority shall place in public domain details of every approval granted or rejected under this section.]

[1] Subs. by s. 17, ibid., for sub-section (2) (w.e.f. 1-4-2024).
[2] Ins. by s. 17, ibid. (w.e.f. 1-4-2024).
[3] Subs. by Act 10 of 2023, s. 17, for sub-section (4) (w.e.f. 1-4-2024).

Section 20. Transfer of [1][results of research]

[2][(1) Any person or entity who intends to transfer the results of any research on biological resources, which are found in or brought from India, including those deposited in repositories outside India or traditional knowledge associated thereto, to persons referred to under sub-section (2) of section 3 for monetary consideration or otherwise, he shall make an application to the National Biodiversity Authority in such form, and on payment of such fee, as may be prescribed.]

(2) Any person who intends to transfer [3][the results of research] referred to in sub-section (1) shall make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

[4][(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries, as it deems fit, by order, grant approval, subject to such terms and conditions, as it may deem fit, including benefit sharing or otherwise, as per the guidelines or for reasons to be recorded in writing, or reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person concerned.

(4) The National Biodiversity Authority shall place in public domain the details of every approval granted or rejected under this section.]

[1] Subs. by s. 18, ibid., for "biological resource or knowledge" (w.e.f. 1-4-2024).
[2] Subs. by s. 18, ibid., for sub-section (1) (w.e.f. 1-4-2024).
[3] Subs. by s. 18, ibid., for "any biological resource or knowledge associated thereto" (w.e.f. 1-4-2024).
[4] Subs. by s. 18, ibid., for sub-sections (3) and (4) (w.e.f. 1-4-2024).

Section 21. Determination of [1][fair and equitable] benefit sharing by National Biodiversity Authority

[2][(1) The National Biodiversity Authority shall, while determining benefit sharing for the approval granted under this Act, ensure that the terms and conditions subject to which the approval is granted secures fair and equitable sharing of benefits arising out of the use of accessed biological resources, their derivatives, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, and the Biodiversity Management Committee represented by the National Biodiversity Authority.]

(2) The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which shall be given effect in all or any of the following manner, namely:-

(a) grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;

(b) transfer of technology;

(c) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(d) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation;

(e) setting up of venture capital fund for aiding the cause of benefit claimers;

(f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit. (3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund:

[3][Provided that where biological resource or associated knowledge was a result of access from an individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such benefit claimer or organisation in accordance with the terms of any agreement and in such manner as it deems fit.]

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, by regulations, frame guidelines.

[1] Subs. by s. 19, ibid., for "equitable" (w.e.f. 1-4-2024).

[2] Subs. by s. 19, ibid., for sub-section (1) (w.e.f. 1-4-2024).

[3] Subs. by Act 10 of 2023, s. 19, for the proviso (w.e.f. 1-4-2024).

CHAPTER VI STATE BIODIVERSITY BOARD

Section 22. Establishment of State Biodiversity Board

(1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established by that Government for the purposes of this Act, a Board for the State to be known as the_____ (name of the State) Biodiversity Board.

(2) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:

Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons [1][or body] as the Central Government may specify.

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(4) The Board shall consist of the following members, namely:-

[2][(a) a Chairperson, who shall be an eminent person having adequate knowledge, expertise and experience in the conservation and sustainable use of biological diversity and in matters relating to fair and equitable sharing of benefits, to be appointed by the State Government;

(b) not more than seven ex officio members to be appointed by the State Government to represent the concerned departments of the State Government, including departments dealing Panchayati Raj and tribal affiairs;

(c) not more than five non-official members to be appointed from amongst experts, including legal experts, scientists having special knowledge, expertise and work experience in matters relating to conservation of biological diversity, sustainable use of biological resources and fair and equitable sharing of benefits arising out of the use of biological resources.]

(5) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official Gazette, specify.

[1] Ins. by s. 20, ibid. (w.e.f. 1-4-2024).

[2] Subs. by s. 20, ibid., for clauses (a), (b) and (c) (w.e.f. 1-4-2024).

Section 23. Functions of State Biodiversity Board

The functions of the State Biodiversity Board shall be to-

[1][(a) advise the State Government on matters relating to the conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the utilisation of biological resources or traditional knowledge associated thereto, in conformity with the regulations or guidelines if any, issued by the Central Government or the National Biodiversity Authority;

(b) regulate any activity referred to in section 7 by granting or rejecting approvals;

(ba) determine the fair and equitable sharing of benefits as provided under the regulations made in this behalf by the National Biodiversity Authority while granting approvals;]

(c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

[1] Subs. by s. 21, ibid., for clauses (a) and (b) (w.e.f. 1-4-2024).

Section 24. Power of State Biodiversity Board to restrict certain activities violating the objectives of conservation, etc

[1][(1) Any person other than the person referred to in sub-section (2) of section 3, intending to undertake any activity covered under section 7, shall give prior intimation to the State Biodiversity Board, in such form as may be prescribed by the State Government.]

[2][(2) If the State Biodiversity Board is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity of fair and equitable sharing of benefits arising out of such activity, it may by order, restrict or reject such activity:

Provided that no such order or rejection shall be made without giving an opportunity of being heard to the person concerned.

(3) The State Biodiversity Board shall place in public domain the details of every approval granted or rejected under this section.]

[1] Subs. by Act 10 of 2023, s. 22, for sub-section (1) (w.e.f. 1-4-2024).
[2] Subs. by s. 22, ibid., for sub-sections (2) and (3) (w.e.f. 1-4-2024).

Section 25. Provisions of sections 9 to 17 to apply with modifications to State Biodiversity Board

The provisions of sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the following modifications, namely:-

(a) references to the Central Government shall be construed as references to the State Government;

(b) references to the National Biodiversity Authority shall be construed as references to the State Biodiversity Board;

(c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

CHAPTER VII FINANCE, ACCONTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

Section 26. Grants or loans by the Central Government

The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Section 27. Constitution of National Biodiversity Fund

(1) There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto-

(a) any grants and loans made to the National Biodiversity Authority under section 26;

[1][(b) all sums including charges and benefit sharing amount received by the National Biodiversity Authority;]

(c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be [2][utilised] for-

(a) channeling benefits to the benefit claimers;

[3][(b) conservation, promotion and sustainable use of biological resources;

(c) socio-economic development of areas from where such biological resources or traditional knowledge associated thereto have been accessed in consultation with the Biodiversity Management Committee:

Provided that when it is not possible to identify the area from where the biological resources or traditional knowledge associated thereto have been accessed, the fund shall be utilised for socio-economic development of the area where such biological resources occur;

(d) activities to meet the purposes of the Act.]

[1] Subs. by s. 23, ibid., for clause (b) (w.e.f. 1-4-2024).
[2] Subs. by s. 23, ibid., for "applied" (w.e.f. 1-4-2024).
[3] Subs. by s. 23, ibid., for clauses (b) and (c) (w.e.f. 1-4-2024).

Section 28. Annual report of National Biodiversity Authority

The National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

Section 29. Budget, accounts and audit

(1) The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority.

(4) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report there on shall be forwarded annually to the Central Government.

Section 30. Annual report to be laid before parliament

The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

Section 31. Grants of money by State Government to State Biodiversity Board

The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Biodiversity Board by way of grants or loans such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

Section 32. Constitution of State Biodiversity Fund

(1) There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto-

(a) any grants and loans made to the State Biodiversity Board under section 31;

(b) any grants or loans made by the National Biodiversity Authority;

[1][(c) all sums including charges and benefit sharing amount received by the State Biodiversity Board and from such other sources as may be decided by the State Government;]

(2) The State Biodiversity Fund shall be [2][utilised] for-

(a) the management and conservation of heritage sites;

[3][(aa) channelling benefits to the benefit claimers;]

(b) compensating or rehabilitating any section of the people economically affected by notification under sub-section (1) of section 37;

[4][(c) conservation, promotion and sustainable use of biological resources;]

[5][(d) socio-economic development of areas from where such biological resources or traditional knowledge associated thereto have been accessed in consultation with the Biodiversity Management Committee or local body concerned:

Provided that when it is not possible to identify the area from where the biological resources or associated knowledge have been accessed, the fund shall be utilised for socio-economic development of the area where such biological resources occur;]

[6][(e) making grants or loans to the Biodiversity Management Committees;

(f) the activities to meet the purposes of the Act.]

[1] Subs. by Act 10 of 2023, s. 24, for clause (c) (w.e.f. 1-4-2024).
[2] Subs. by s. 24, ibid., for "applied" (w.e.f. 1-4-2024).
[3] Ins. by Act 10 of 2023, s. 24 (w.e.f. 1-4-2024).
[4] Subs. by s. 24, ibid., for clause (c) (w.e.f. 1-4-2024).
[5] Subs. by s. 24, ibid., for clause (d) (w.e.f. 1-4-2024).
[6] Subs. by s. 24, ibid., for clause (e) (w.e.f. 1-4-2024).

Section 33. Annual report of State Biodiversity Board

The State Biodiversity Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Section 34. Audit of accounts of State Biodiversity Board

The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the State Biodiversity Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

Section 35. Annual report of State Biodiversity Board to be laid before State Legislature

The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature.

CHAPTER IX DUTIES OF THE CENTRAL AND THE STATE GOVERNMENTS

Section 36. [1]Central Government to develop national strategies and plans for conservation, promotion and sustainable use of biological diversity

(1) The Central Government shall [2][in consultation with the State Government and Union territories] develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of in situ, and ex situ, [3][conservation of biological resources, including cultivars, folk varieties and landraces, incentives] for research, training and public education to increase awareness with respect to biodiversity.

(2) Where the Central Government has reason to believe that any area rich in biological diversity, biological resources and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures, offering such State Government any technical and other assistance that is possible to be provided or needed.

(3) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant [4][sectoral policies or cross-sectoral plans and programmes].

(4) The Central Government shall undertake measures,-

(i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimise such effects and where appropriate provide for public participation in such assessment;

(ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological

diversity and human health.

(5) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including sui generis system.

[5][(6) The Central Government shall involve the National Biodiversity Authority or State Biodiversity Boards to undertake measures for conservation and sustainable use of biological diversity or traditional knowledge associated thereto.]

Explanation.-For the purposes of this section,-

(a) "ex situ conservation" means the conservation of components of biological diversity outside their natural habitats;

(b) "in situ conservation" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

[1] Subs. by s. 25, ibid., for the marginal heading (w.e.f. 1-4-2024).
[2] Ins. by s. 25, ibid. (w.e.f. 1-4-2024).
[3] Subs. by s. 25, ibid., for "conservation of biological resources, incentives" (w.e.f. 1-4-2024).
[4] Subs. by s. 25, ibid., for "sectoral or cross-sectoral plans, programmes and policies" (w.e.f. 1-4-2024).
[5] Ins. by Act 10 of 2023, s. 25 (w.e.f. 1-4-2024).

Section 36A. Measures to be taken by National Biodiversity Authority

[1][The Central Government may authorise National Biodiversity Authority or any other organisation to take any measure necessary to monitor and regulate within the territory of India, the access and utilisation of biological resources obtained from a foreign country in order to meet the international obligations to which India is a signatory.

[1] Ins. by s. 26, ibid. (w.e.f. 1-4-2024).

Section 36B. State Government to develop strategies and plans for conservation and sustainable use of biological diversity

(1) The State Government shall develop strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity, including measures for indentification and monitoring of areas rich in biological resources, promotion of in situ, and ex situ, conservation of biological resources, including cultivars, folk varieties and landraces, incentives for research, training and public education to increase awareness with respect to biodiversity, in conformity with the national strategies, plans and programmes.

(2) The State Government shall, as far as practicable, wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral policies or cross-sectoral plans and programmes.]

Section 37. Biodiversity heritage sites

[1][(1) Without prejudice to any other law for the time being in force, based on the recommendations of the State Biodiversity Board, the State Government may, from time to time, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act:

Provided that the State Biodiversity Board shall consult the local body and the Biodiversity Management Committee concerned before making such recommendations.]

(2) The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the [2][biodiversity heritage sites].

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

[1] Subs. by s. 27, ibid., for sub-section (1) (w.e.f. 1-4-2024).
[2] Subs. by s. 27, ibid., for "heritage sites" (w.e.f. 1-4-2024).

Section 38. Power of Central Government to notify threatened species

Without prejudice to the provisions of any other law for the time being in force, the Central Government, in consultation with the concerned State Government, may from time to time notify any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

[1][Provided that the Central Government may delegate such power to the State Government:

Provided further that where such power is delegated to the State Government, it shall consult the National Biodiversity Authority before issuing any such notification.]

[1] Ins. by Act 10 of 2023, s. 28 (w.e.f. 1-4-2024).

Section 39. Power of Central Government to designate repositories

(1) The Central Government may, in consultation with the National Biodiversity Authority, designate institutions as repositories under this Act for different categories of biological resources.

(2) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.

(3) Any new tax on discovered by any person shall be notified to the repositories or any institution designated for this purpose and he shall deposit the voucher specimens with such repository or institution.

Section 40. Provisions of this Act not to apply in certain cases

[1][Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall not apply to biological resources when normally traded as commodities or to the items derived from them, including agricultural wastes, as notified and cultivated medicinal plants and their products for entities covered under section 7, registered as per the regulations made or as may prescribed:

Provided that no exemption shall be made for the activities referred to in sub-sections (1) and (2) of section 6.]

[1] Subs. by s. 29, ibid., for section 40 (w.e.f. 1-4-2024).

CHAPTER X BIODIVERSITY MANAGEMENT COMMITTEES

Section 41. Constitution of Biodiversity Management Committee

[1][(1) Every local body at the Gram Panchayat level in the rural areas and at the Nagar Panchayat or Municipal Committee at Municipal Corporation level in the urban areas shall constitute a Biodiversity Management Committee (by whatever name called) within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of landraces, folk varieties, farmers' varieties, and cultivars, domesticated stocks and breeds of animals, living things in water bodies and microorganisms and chronicling of knowledge relating to biological diversity:

Provided that the State Government may constitute Biodiversity Management Committees at the intermediate or district Panchayat level for achieving the objectives of the Act.

(1A) The functions of Biodiversity Management Committee so constituted shall include conservation, sustainable use and documentation of biological diversity, including conservation of habitats, landraces, folk varieties, cultivars, domesticated breeds of animals, and microorganisms, and chronicling of traditional knowledge associated thereto relating to biological diversity

(1B) The composition of the Biodiversity Management Committee shall be such as may be prescribed by the State Government:

Provided that the number of members of the said Committee shall not be less than seven and not exceeding eleven.]

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources [2][or traditional knowledge associated thereto] occurring within the territorial jurisdiction of the Biodiversity Management Committee.

[3][Explanation.-For the purposes of this section-

(a) "cultivar" means a veriety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;

(b) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;

(c) "landrace" means primitive cultivar that was grown by ancient farmers and their successors;

(d) "farmers' variety" means a veriety which-

(i) has been traditionally cultivated and evolved by the farmers in their field; or

(ii) is a wild relative or landrace of a veriety about which the farmers possess the common knowledge.]

(3) The Biodiversity Management Committees may levy charges by way of collection fees from any person for

accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction.

[1] Subs. by s. 30, ibid., for sub-section (1) (w.e.f. 1-4-2024).

[2] Subs. by Act 10 of 2023, s. 30, for "and knowledge associated with such resources" (w.e.f. 1-4-2024).

[3] Ins. by s. 30, ibid. (w.e.f. 1-4-2024).

CHAPTER XI LOCAL BIODIVERSITY FUND

Section 42. Grants to Local Biodiversity Fund

The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

Section 43. Constitution of Local Biodiversity Fund

(1) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto-

(a) any grants and loans made under section 42;

(b) any grants or loans made by the National Biodiversity Authority;

(c) any grants or loans made by the State Biodiversity Boards;

(d) fees referred to in sub-section (3) of section 41 received by the Biodiversity Management Committees;

[1][(e) benefit sharing amount and all other sums received by the Local Biodiversity Fund from such other sources as may be decided by the State Government.]

[1] Subs. by s. 31, ibid., for clause (e) (w.e.f. 1-4-2024).

Section 44. Application of Local Biodiversity Fund

[1][(1) The Local Biodiversity Fund shall be utilised in accordance with the regulations and the guidelines made in this behalf, for-

(a) the conservation and promotion of biodiversity including restoration of areas falling within the jurisdiction of concerned local body;

(b) the socio-economic development of the community without compromising the conservation concerns; and

(c) the administrative expenses of the Biodiversity Management Committee.

(2) The Fund shall be utilised in such manner as may be prescribed by the State Government.]

[1] Subs. by s. 32, ibid., for section 44 (w.e.f. 1-4-2024).

Section 45. Annual statement of Biodiversity Management Committees

[1][45. The custodian of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed by the State Government, its annual statement giving a full account of its activities during the previous financial year, and submit the same to the local body concerned with a copy to the State Biodiversity Board.]

[1] Subs. by Act 10 of 2023, s. 33, for section 45 (w.e.f. 1-4-2024).

Section 46. Audit of accounts of Biodiversity Management Committees

[1][(1) The Biodiversity Management Committee shall maintain the accounts which shall be audited in such manner as may be prescribed by the State Government.

(2) The Biodiversity Management Committee shall furnish to the local body concerned and to the State Biodiversity Board, before such date as may be prescribed by the State Government, its audited copy of accounts together with auditor's report thereon.]

[1] Subs. by s. 34, ibid., for section 46 (w.e.f. 1-4-2024).

Section 47. Annual report, etc., of the Biodiversity Management Committee to be submitted to District Magistrate

Every local body constituting a Biodiversity Management Committee under sub-section (1) of section 41, shall cause, the annual report and audited copy of accounts together with auditor's report thereon referred to in sections 45 and 46, respectively and relating to such Committee to be submitted to the District Magistrate having jurisdiction over the area of the local body.

CHAPTER XII MISCELLANEOUS

Section 48. National Biodiversity Authority to be bound by the directions given by Central Government

(1) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Section 49. Power of State Government to give directions

(1) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:

Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the State Government whether a question is one of policy or not shall be final.

Section 50. Settlement of disputes [1]***

(1) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government within such time as may be prescribed.

(2) Every appeal made under sub-section (1) shall be in such form as may be prescribed by the Central Government.

(3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government:

Provided that before disposing of an appeal, the parties shall be given a reasonable opportunity of being heard.

(4) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.

(5) While adjudicating any dispute under sub-section (4), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(6) The National Biodiversity Authority shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it ex parte;

(g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(h) any other matter which may be prescribed.

(7) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860) and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXV1 of the Code of Criminal Procedure, 1973 (2 of 1974).

[1] The words "between State Biodiversity Boards" omitted by s. 35, ibid., (w.e.f. 1-4-2024).

Section 51. Members, officers, etc., of National Biodiversity Authority and State Biodiversity Board deemed to be public servants

All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Section 52. Appeal

Any person, aggrieved by any determination of [1][fair and equitable sharing of benefits or order or direction] of the National Biodiversity Authority or a State Biodiversity Board under this Act, may file an appeal to the High Court within thirty days from the date of communication to him, of the determination or order of the National Biodiversity Authority or the State Biodiversity Board, as the case may be:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

[2][Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010 (19 of 2010):

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010 (19 of 2010), shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act, 2010.]

[1] Subs. by Act 10 of 2023, s. 36, for "benefit sharing or order" (w.e.f. 1-4-2024).
[2] Ins. by Act 19 of 2010, s. 36 and Schedule III (w. e. f. 18-10-2010).

Section 52A. Appeal to National Green Tribunal

[1][Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2010 (19 of 2010), may file an appeal to the National Green Tribunal establishment under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.]

[1] Ins. by Act 19 of 2010, s. 36 and Schedule III (w. e. f. 18-10-2010).

Section 53. Execution of determination or order

Every determination of [1][fair and equitable sharing of benefits] or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court [2][or the National Green Tribunal] in any appeal against any determination or order of the National Biodiversity Authority or a State Biodiversity Board shall, on a certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court [3][or the Registrar of the National Green Tribunal], as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court.

Explanation.-For the purposes of this section and section 52, the expression "State Biodiversity Board" includes the person or group of persons [4][or body] to whom the powers or functions under sub-section (2) of section 22 have been delegated under the proviso to that sub-section and the certificate relating to such person or group of persons [4][or body] under this section shall be issued by such person or group of persons [4][or body], as the case may be.

[1] Subs. by Act 10 of 2023, s. 37, for "benefit sharing" (w.e.f. 1-4-2024).
[2] Ins. by s. 37, ibid., (w.e.f. 1-4-2024).
[3] Ins. by Act 10 of 2023, s. 37, (w.e.f. 1-4-2024).
[4] Ins. by s. 37, ibid., (w.e.f. 1-4-2024).

Section 54. Protection of action taken in good faith

No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Section 55. Penalties

[1][If any person or entity covered under sub-section (2) of section 3 or section 7 contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 or section 7, such person shall be liable to pay penalty which shall not be less than one lakh rupees, but which may extend to fifty lakh rupees, but where the damage caused exceeds the amount of penalty, such penalty shall be commensurate with the damage caused, and in case, the failure or contravention continues, an additional penalty may be imposed, which shall not exceed one crore rupees and such penalty shall be decided by the adjudicating officer appointed under section 55A.

[1] Subs. by s. 38, ibid., for section 55 (w.e.f. 1-4-2024).

Section 55A. Adjudication of penalties

(1) For the purposes of determining the penalties under section 55, the Central Government may appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold inquiry in the prescribed manner and to impose the penalty so determined:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of section 3 or section 4 or section 6 or section 7, he may impose such penalty as he thinks fit in accordance with the provisions of section 55:

Provided that no such penalty shall be imposed without giving the person concerned an opportunity of being heard in the matter.

(3) Any person aggrieved by the order made by the adjudicating officer under sub-section (2) may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010).

(4) Every appeal under sub-section (3) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(5) The National Green Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

Section 55B. Power to enter, inspect, survey, etc

Any authority or officer empowered by the Central Government may, for the purposes of carrying out inspection, survey or any such activity, have all or any of the following powers, namely:-

(a) the power to enter upon any land, vehicle, or premises and to inspect, investigate, survey and collect information and make a map of the same and seize the materials and records;

(b) the powers of a civil court to compel the attendance of anyone, including witnesses and production of documents and materials objects;

(c) the power to issue a search-warrant;

(d) the power to hold an inquiry and in the course of such inquiry, receive and record evidence;

(e) such other power as may be prescribed.]

Section 56. Penalty for contravention of directions or orders of Central Government, State Government, National Biodiversity Authority and State Biodiversity Boards

If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees every day during which the default continues.

Section 57. Offences by companies

(1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Section 58. Offences to be cognizable and non-bailable

[Offences to be cognizable and non-bailable.] -Omitted by the Biological Diversity (Amendment) Act, 2023 (10 of 2023), s. 39 (w.e.f. 1-4-2024).

Section 59. Act to have effect in addition to other Acts

The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to forests or wildlife.

Section 59A. Act not to apply to certain persons

[1][The provision of this Act shall not apply to any person who has been given any approval or granted any right under any law relating to protection of plant varieties enacted by Parliament to the extent that such approvals or rights given under that Act does not require similar approval under this Act.]

[1] Ins. by Act 10 of 2023, s. 40 (w.e.f. 1-4-2024).

Section 60. Power of Central Government to give directions to State Government

The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or regulation or order made thereunder.

Section 61. Cognizance of offences

No Court shall take cognizance of any offence under this Act except on a [1][written complaint] made by-

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) [2][any person or a benefit claimer] who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

[1] Subs. by s. 41, ibid., for "complaint" (w.e.f. 1-4-2024).

[2] Subs. by Act 10 of 2023, s. 41, for "any benefit claimer" (w.e.f. 1-4-2024).

Section 62. Power of Central Government to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

[1][(a) the manner of obtaining the certificate of origin under sub-section (2) of section 7;

(aa) the books on the basis of which the certificate of origin to be issued, the manner of maintaining such books and the manner of issuing such certificate under sub-section (3) of section 7;

(ab) the terms and conditions of service of the Chairperson, Member-Secretary and other members under section 9;]

(b) powers and duties of the Chairperson under section 10;

[2][(ba) the other functions to be performed by the Member-Secretary;]

(c) procedure under sub-section (1) of section 12 in regard to transaction of business at meetings;

(d) form of application and payment of fees for undertaking certain activities under sub-section (1) of section 19;

(e) the form and manner of making an application [2][and payment of fees] under sub-section (2) of section 19;

[2][(ea) form of application and payment of fees under sub-section (1) of section 20;]

(f) form of application and the manner for transfer of biological resource or knowledge under sub-section (2) of section 20;

(g) form in which, and the time of each financial year at which, the annual report of the National Biodiversity Authority shall be prepared and the date before which its audited copy of accounts together with auditor's report thereon shall be furnished under section 28;

(h) form in which the annual statement of account shall be prepared under sub-section (1) of section 29;

(i) the time within which and the form in which, an appeal may be preferred, the procedure for disposing of an

appeal and the procedure for adjudication, under section 50;

(j) the additional matter in which the National Biodiversity Authority may exercise powers of the civil court under clause (h) of sub-section (6) of section 50;

[2][(ja) the manner of holding inquiry by the adjudicating officer under section 55A;

(jb) the other power under clause (e) of section 55B;]

(k) the manner of giving notice under clause (b) of section 61;

(1) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

[1] Subs. by s. 42, ibid., for clause (a) (w.e.f. 1-4-2024).
[2] Ins. by s. 42, ibid. (w.e.f. 1-4-2024).

Section 63. Power of State Government to make rules

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the other functions to be performed by the State Biodiversity Board under clause (c) of section 23;

(b) the form in which the prior intimation shall be given under sub-section (1) of section 24;

(c) the form in which, and the time of each financial year at which, the annual report shall be prepared under section 33;

(d) the manner of maintaining and auditing the accounts of the State Biodiversity Board and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 34;

(e) management and conservation of national heritage sites under section 37;

[1][(ea) the composition of the Biodiversity Management Committee under sub-section (1B) of section 41;]

(f) the manner of management and custody of the Local Biodiversity Fund and the purposes for which such Fund shall be [2][utilised] under sub-section (1) of section 44;

(g) the form of [3][annual statement] and the time at which such report shall be prepared during each financial year under section 45;

(h) the manner of maintaining and auditing the accounts of the Local Biodiversity Fund and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 46;

(i) any other matter which is to be, or may be, specified.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

[1] Ins. by Act 10 of 2023, s. 43 (w.e.f. 1-4-2024).
[2] Subs. by s. 43, ibid., for "applied" (w.e.f. 1-4-2024).
[3] Subs. by s. 43, ibid., for "annual report" (w.e.f. 1-4-2024).

Section 64. Power to make regulations

The National Biodiversity Authority shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

Section 65. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this

Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

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