

# THE BIOLOGICAL DIVERSITY ACT, 2002

[Act 18 of 2003, dt. 5-2-2003]

*[As amended by the Biological Diversity (Amdt.) Act, 2023  
(10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024]*

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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 <sup>1</sup>[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;

<sup>2</sup>[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

#### 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<sup>3</sup> as the Central Government may, by notification in the Official Gazette, appoint:

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<sup>1</sup> Substituted for "party" by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023. w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

<sup>2</sup> Substituted for "AND WHEREAS it is considered necessary to provide for conservation, sustainable utilisation and equitable sharing of the benefits arising out of utilisation of genetic resources and also to give effect to the said Convention.", *ibid*.

<sup>3</sup> Sections 1, 2, 8 to 17, 48, 54, 59, 62, 63, 64 and 65 enforced w.e.f. 1-10-2003 vide SO 1146(E), dt. 1-10-2003. Sections 3 to 7, 18 to 47, 49 to 53, 55 to 58, 60 and 61 enforced w.e.f. 1-7-2004 vide SO 753(E), dt. 1-7-2004.

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.

## 2. Definitions

In this Act, unless the context otherwise requires,—

- <sup>1</sup>[(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” <sup>2</sup>“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;
- <sup>3</sup>[(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;
- <sup>4</sup>[(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 utilization” means end uses of biological resources for commercial utilization 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;

<sup>1</sup> Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024. Prior to substitution, clause (a) read as under:

“(a) “benefit claimers” means the conservers of biological resources, their by-products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;”

<sup>2</sup> Inserted, *ibid.*

<sup>3</sup> Substituted, *ibid.* Prior to substitution, clause (c) read as under:

“(c) “biological resources” means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material;”

<sup>4</sup> Inserted, *ibid.*

- <sup>1</sup>[(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;
- <sup>1</sup>[(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 referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory;
- (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;
- <sup>1</sup>[(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.

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<sup>1</sup> Inserted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

### COMMENTS

#### *Benefit claimers*

Benefit is something that promotes well-being; advantage; useful aid, help; financial help in time of sickness, old age or unemployment—*Webster's Ninth New Collegiate Dictionary*.

The word "benefit" includes benefits, express or otherwise, in terms of money but requiring computation.—*Proprietor, Lenox Photo Manufacturing v. Presiding Officer, Labour Court AIR 1965 (Mad) 450*.

It is an advantage or profit gained from something.

Advantage, profit, fruit, privilege, gain, interest. The receiving as the exchange, for promise some performance or forbearance which promisor was not previously entitled to receive.—*Graphic Art Finishers, Inc. v. Boston Redevelopment Authority 357 Mass. 40, 255 N.E. 2d 793, 795*.

A claim is a demand for something due or believed to be due; a right to something, especially a title to a debt, privilege or other thing in the possession of another; assertion open to challenge; something that is claimed. Claim means a demand for something as due or to seek or ask for on the ground of right.—*Hameedia Hardware Stores v. B. Mohan Lal Sowcar AIR 1988 (SC) 1060*

#### *Biological diversity*

Biology is the science of life, dealing with the morphology, physiology, anatomy, behaviour, origin and distribution of living organisms.

The term "biological" means pertaining to, or of the nature of biology or the phenomena of living organisms.

Diversity is the condition or quality of being diverse, different, or varied, variety, unlikeness.

Biodiversity connotes the variety of plant and animal life in the world or in a particular habitat.

#### *Commercial utilization*

The term implies use in connection with or for furtherance of a profit-making enterprise.—*Roberts Enterprises, Inc. v. Secretary of Transp., 237 Kan. 276, 699 P. 2d 479, 483*

#### *Fair and equitable benefit sharing*

The words "fair" and "equitable" both mean "just" or unbiase".—*Concise Oxford Dictiondry, 4th Edn*. Fair means having the qualities of impartiality and honesty; free from prejudice, favouritism, and self-interest. Just; equitable; even-handed, equal, as between conflicting interests. Equitable also means just; conformable to the principles of justice and right.—*Black's Law Dictionary*

Under section 21 of the Act, the National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, 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, local bodies concerned and the benefit claimers.

#### *Local bodies*

Article 243B of the Constitution of India provides for the constitution of Panchayats. Clause (1) of that article lays down that there shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of Part IX of the Constitution. Likewise, clause (1) of article 243Q of the Constitution provides for the constitution of Municipalities whereunder there shall be constituted in every State—

- (a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

- (b) a Municipal Council for a smaller urban area; and
- (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of Part IX-A of the Constitution:

PROVIDED that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the Municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit by public notification, specify to be an industrial township.

Local authority is a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund.—General Clauses Act, 1897, s. 3(31). See also *Union of India v. R.C. Jain AIR 1981 (SC) 951*.

'Local authority' means a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.—*R. Sarangapani v. Port Trust of Madras AIR 1961 (Mad) 234*.

The expression "local authority" is not defined in the Land Acquisition Act. But by the General Clauses Act, 1897, the expression "local authority" is defined as meaning "a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund." By virtue of Section 10(2) of the Gujarat Agricultural Produce Markets Act, 1963, the Market Committee is a local authority within the meaning of the Bombay General Clauses Act.—*Patel Premji Jiva By L Rs. v. State of Gujarat, (1971) 3 SCC 815*.

A proper and careful scrutiny of the language of Section 3(31) of the General Clauses Act suggests that an authority, in order to be a 'local authority', must be of like nature and character as a Municipal Committee, District Board or Body of Port Commissioners, possessing, therefore, many, if not all, of the distinctive attributes and characteristics of a Municipal Committee, District Board, or Body of Port Commissioners, but, possessing one essential feature, namely, that it is legally entitled to or entrusted by the government with, the control and management of a municipal or local fund. [General Clauses Act].—*Union of India v. Shri R.C. Jain, AIR 1981 (SC) 951*.

#### *National Biodiversity Authority*

Section 8 of the Act provides for the establishment of National Biodiversity Authority by the Central Government. Said Authority shall be a body corporate by the aforesaid name, 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. The head office of the National Biodiversity Authority shall be at Chennai and the Authority, with previous approval of the Central Government, may establish offices at other places in India. The Authority shall consist of members as enumerated under sub-section (4) of section 8.

#### *Prescribed*

Sections 62 and 63 empower respectively the Central Government and the State Government to make rules for carrying out the purposes of the Act.

#### *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 the Act, vide section 64

#### *Research*

Research is a search or investigation undertaken to discover facts and reach new conclusions by the critical study of a subject or by a course of scientific inquiry. A systematic investigation into and study of materials, sources, etc., to establish facts, collate information. etc.—*New Shorter Oxford English Dictionary*

*State Biodiversity Board*

Section 22 of the Act empowers the State Government to establish a State Biodiversity Board, but in relation to a Union Territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for the purposes of the Act, and in relation to a Union Territory, the National Biodiversity Authority may legate all or any of its powers or functions to such person or group of persons as the Central Government may specify. Like the National Biodiversity Authority, the State Board also shall be a body corporate 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 sue and be sued. The Board shall consist of the members as mentioned in sub-section (4) of section 22, and the functions of the Board are as provided under section 23.

*Value added products*

“Value added” in economics means the amount by which the value of an article is increased at each stage of its production, exclusive of initial costs. (Of goods) having added features for which the buyer is prepared to pay extra.

**CHAPTER II****REGULATION OF ACCESS TO BIOLOGICAL <sup>1</sup>[RESOURCES]****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
  - <sup>2</sup>[(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).]

**COMMENTS**

Under section 2(30) of the Income Tax Act, 1961, “non-resident” means a person who is not a resident, and for the purposes of sections 92, 93 and 168 of that Act, includes a person who is not ordinarily resident within the meaning of sub-section (6) of section 6 of that Act.

<sup>1</sup> Substituted for “DIVERSITY” by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

<sup>2</sup> Substituted, ibid. Prior to substitution, sub-clause (ii) read as under:  
“(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.”

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

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.]

**COMMENTS**

“Transfer” is a word of wider import than sale. A transfer may be by means of a lease in mortgage or sale or by any other mode.—*Union of India v. Maqsood Ahmed AIR 1963 (Bom) 110.*

Transfer in relation to a capital asset includes the sale, exchange, or relinquishment of the assets or the extinguishment or any rights therein or the compulsory acquisition thereof under any law—*Vide section 2(47) of the Income Tax Act, 1961.*

Transfer must necessarily be accompanied by the hand from which and the hand to which something is to be transferred, that is to say, “transfer” must carry with it “from” and “to”. If either of them is wanting, there can be no transfer.—*Deepchand v. M.P.S.R.T. Corporation AIR 1977 (MP) 42.*

In India, the word “transfer” is defined with reference to the word “convey”. The word “transfer” in English law in its narrower and more usual sense refers to the transfer of an estate in land. The word “conveys” in Section 5 of the Transfer of Property Act is used in the wider sense of conveying ownership.—*Narandas Karsondas v. S.A. Kamtam, AIR 1977 (SC) 774.*

Earl Jowitt, in ‘The Dictionary of English Law’ says: In the law of property, a “transfer” is where a right passes from one person to another, either (1) by virtue of an act done by that transferor with that intention, as in the case of a conveyance or assignment by way of sale or gift, etc; or (2) by operation of law, as in the case of forfeiture, bankruptcy, descent, or intestacy.—*The Mangalore Electric Supply Co. Ltd. v. The Commissioner of Income Tax, West Bengal, AIR 1978 (SC) 1272.*

1 Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

Prior to substitution, section 4 read as under:

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

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 organization 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.”

**5. <sup>1</sup>[Certain provisions] not to apply to certain collaborative research projects**

<sup>2</sup>[(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.

**COMMENTS**

Collaborate means to work justly, especially on a literary or scientific project. Collaboration is the act of working together in a joint project.

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

<sup>3</sup>[(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.

1 Substituted for "Sections 3 and 4" by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

2 Substituted, *ibid.* Prior to substitution, sub-section (1) read as under:  
“(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).”

3 Substituted, *ibid.* Prior to substitution, sub-section (1) read as under:  
“(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.”

(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 <sup>1</sup>[\*\*\*].

(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.

#### COMMENTS

Intellectual property law is that area of law which concerns legal rights associated with creative effort or commercial reputation and goodwill. The subject matter of intellectual property is very wide and includes literary and artistic works, films, computer programmes, inventions, designs and marks used by traders for their goods or services. The law deters others from copying or taking unfair advantage of the work or reputation of another and provides remedies should this happen. There are several different forms of rights or areas of law giving rise to rights that together make up intellectual property. They are:

- (a) copyright
- (b) rights in performance
- (c) the law of confidence
- (d) patents
- (c) registered designs
- (f) design right
- (g) trade marks
- (h) passing off
- (i) trade libel

This list is not exhaustive and there are other rights, for example, the rights associated with plant and seed varieties protection, etc.

#### **<sup>2</sup>[7. Prior intimation to State Biodiversity Board for accessing biological resource for certain purposes**

(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

<sup>1</sup> Words "enacted by Parliament" omitted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

<sup>2</sup> Substituted, *ibid.* Prior to substitution, section 7 read as under:  
**"7. Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes**—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 vaidas and hakims, who have been practising indigenous medicine."

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 vaidas, 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 sub-section (2) in such manner as may be prescribed.]

### CHAPTER III

#### NATIONAL BIODIVERSITY AUTHORITY

##### 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.

<sup>1</sup>[(3) The Head office of the National Biodiversity Authority shall be at Chennai and the Central Government may, by notification in the Official Gazette, establish regional offices in other places in India.]

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

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<sup>1</sup> Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024. Prior to substitution, sub-section (3) read as under:  
“(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.”

- <sup>1</sup>[(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 <sup>2</sup>[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 <sup>3</sup>[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;

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1 Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, **w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024**. Prior to substitution, clauses (a), (b) & (c) read as under:

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

(b) three *ex officio* members to be appointed by the Central Government, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests of whom one shall be the Additional Director General of Forests or the Director General of Forests;

(c) seven *ex officio* members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with—

(i) Agricultural Research and Education;

(ii) Biotechnology;

(iii) Ocean Development;

(iv) Agriculture and Cooperation;

(v) Indian Systems of Medicine and Homoeopathy;

(vi) Science and Technology;

(vii) Scientific and Industrial Research;”

2 Substituted for “specialists”, *ibid*.

3 Substituted for “equitable”, *ibid*.

<sup>1</sup>[(e) a Member-Secretary, who shall have experience in matters relating to biodiversity conservation, to be appointed by the Central Government.]

**9. Conditions of service of <sup>2</sup>[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 <sup>1</sup>[and of Member-Secretary] shall be such as may be prescribed by the Central Government.

**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.

**<sup>1</sup>[10A. Member-Secretary**

(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.]

**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.

**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.

<sup>1</sup> Inserted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

<sup>2</sup> Substituted for "Chairperson and members", *ibid.*

(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.

### **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.

<sup>1</sup>[(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.

### **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.

### **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 <sup>2</sup>[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 <sup>3</sup>[signature of Member-Secretary or an officer] of the National Biodiversity Authority authorised by it in this behalf.

<sup>1</sup> Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, **w.e.f. 1-4-2024**, vide SO 295(E), dt. 18-1-2024. Prior to substitution, sub-section (2) read as under:

“(2) Without prejudice to the provisions of sub-section (1), the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.”

<sup>2</sup> Inserted, *ibid*.

<sup>3</sup> Substituted for “signature of an officer”, *ibid*.

### 16. Delegation of powers

The National Biodiversity Authority may, by general or special order in writing, delegate to any member <sup>1</sup>[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.

### 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

#### 18. Functions and powers of National Biodiversity Authority

<sup>2</sup>[(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 <sup>3</sup>[fair and equitable] sharing of benefits arising out of the utilisation of biological resources;

(b) advise the State Government in the selection of areas of biodiversity importance to be notified under sub-section (1) of section 37 as heritage sites and measures for the management of such <sup>4</sup>[biodiversity heritage sites];

<sup>1</sup>[(ba) advise the State Biodiversity Boards on any matter relating to the implementation of the Act;]

1 Inserted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

2 Substituted, *ibid.* Prior to substitution, sub-sections (1) and (2) read as under:  
“(1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in sections 3, 4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing.

(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in sections 3, 4 and 6.”

3 Substituted for “equitable”, *ibid.*

4 Substituted for “heritage sites”, *ibid.*

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

<sup>1</sup>[(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.

## CHAPTER V

### APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY

#### 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.

<sup>2</sup>[(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.

1 Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, **w.e.f. 1-4-2024**, vide **SO 295(E)**, dt. **18-1-2024**. Prior to substitution, sub-section (4) read as under:

“(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 obtained from India or knowledge associated with such biological resource which is derived from India.”

2 Substituted, *ibid*. Prior to substitution, sub-section (2) read as under:

“(2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India referred to in sub-section (1) of section 6, may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.”

<sup>1</sup>[(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.]

<sup>2</sup>[(4) The National Biodiversity Authority shall place in public domain details of every approval granted or rejected under this section.]

#### COMMENTS

The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) of section 3 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;
- (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.

#### **20. Transfer of <sup>3</sup>[results of research]**

<sup>4</sup>[(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 <sup>5</sup>[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.

1 Inserted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024.

2 Substituted, *ibid.* Prior to substitution, sub-section (4) read as under:  
“(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.”

3 Substituted for “biological resource or knowledge”, *ibid.*

4 Substituted, *ibid.* Prior to substitution, sub-section (1) read as under:  
“(1) No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto which is the subject-matter of the said approval except with the permission of the National Biodiversity Authority.”

5 Substituted for “any biological resource or knowledge associated thereto”, *ibid.*

<sup>1</sup>[(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.]

## **21. Determination of <sup>2</sup>[fair and equitable] benefit sharing by National Biodiversity Authority**

<sup>3</sup>[(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;

1 Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, **w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024**. Prior to substitution, sub-sections (3) and (4) read as under:

“(3) On receipt of an application under 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 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.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.”

2 Substituted for “equitable”, *ibid*.

3 Substituted, *ibid*. Prior to substitution, sub-section (1) read as under:

“(1) The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, 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, local bodies concerned and the benefit claimers.”

- (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:

<sup>1</sup>[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.

## CHAPTER VI

### STATE BIODIVERSITY BOARD

#### 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 <sup>2</sup>[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:—

<sup>1</sup> Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024. Prior to substitution, proviso read as under:

“PROVIDED that where biological resource or knowledge was a result of access from specific individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit.”

<sup>2</sup> Inserted, *ibid*.

- <sup>1</sup>[(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 affairs;
- (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.

### 23. Functions of State Bio-diversity Board

The functions of the State Biodiversity Board shall be to—

- <sup>2</sup>[(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 Substituted, by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024. Prior to substitution, clauses (a), (b) and (c) read as under:

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

(b) not more than five *ex officio* members to be appointed by the State Government to represent the concerned Departments of the State Government;

(c) not more than five members to be appointed from amongst experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.”

2 Substituted, *ibid.* Prior to substitution, clauses (a) and (b) read as under:

“(a) advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilization of biological resources;

(b) regulate by granting of approvals or otherwise requests for commercial utilisation or bio-survey and bio-utilisation of any biological resource by Indians;”

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

<sup>1</sup>[(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.]

<sup>2</sup>[(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.]

**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.

**COMMENTS**

Section 9 deals with the conditions of service of Chairperson and members of the National Biodiversity Authority. Section 10 says that the Chairperson to be the Chief Executive of the National Biodiversity Authority. Section 11 lays down the conditions for removal of members of the Authority. Section 12 deals with the meetings of the National Biodiversity Authority. Section 13 provides for constitution committees to deal with agro-biodiversity. The appointment of officers and employees of the National Biodiversity Authority is governed by section 14, and section 15 provides for authentication of orders and decisions of the Authority. Under section 16, the National Biodiversity Authority may, by general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as

1 Substituted by the Biological Diversity (Amdt.) Act, 2023 (10 of 2023), dt. 3-8-2023, w.e.f. 1-4-2024, vide SO 295(E), dt. 18-1-2024. Prior to substitution, sub-section (1) read as under:

“(1) Any citizen of India or a body corporate, organisation or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.”

2 Substituted, *ibid.* Prior to substitution, sub-sections (2) & (3) read as under:

“(2) On receipt of an intimation under sub-section (1), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity:

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

(3) Any information given in the form referred to in sub-section (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.”