

In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of notification no. 570/XIV-5-2010-57/2006, dated April 09, 2010.

No. 570/XIV-5-2010-57/2006

*Dated Lucknow, April 9, 2010*

In exercise of the powers under sub-section (1) of section 63 of the Biological Diversity Act, 2002 (Act no. 18 of 2003), the Governor is pleased to make the following rules, namely:-

### THE UTTAR PRADESH STATE BIOLOGICAL DIVERSITY RULES, 2010

1. (1) These rules may be called the Uttar Pradesh State Biological Diversity Rules, 2010.

Short title and  
commencement

(2) They shall come into force with effect from the date of their publication in the *Gazette*.

2. (1) In these rules, unless the context otherwise requires, -

Definitions

(a) "Act" means the Biological Diversity Act, 2002 ( Act no. 18 of 2003);

(b) "Biodiversity Management Committee" means a Biodiversity Management Committee established by a local body under sub- section (1) of section 41 of the Act;

(c) "Board" means the Uttar Pradesh State Biodiversity Board established in Government notification no. 1498/14-5-2006-57/2006 dated September 20, 2006 under sub-section (1) of section 22 of the Act;

(d) "Chairperson" means the Chairperson of the Board;

(e) "Form" means the Form appended to these rules;

(f) "Non-official members" means members other than *ex-officio* member;

(g) "Secretary" means the Secretary of the Board appointed by the State Government;

(h) "Section" means a section of the Act;

(2) Words and expressions used but not defined in these rules and defined in the Act shall have the meanings respectively assigned to them in the Act.

3. The Board shall consist of the following members:

Constitution of the  
Board

- |   |                        |
|---|------------------------|
| (i) Principal Secretary, Forests, Government of Uttar Pradesh   | Chairperson ex-officio |
| (ii) Nominee of Principal Secretary/Secretary, Environment Department, Government of Uttar Pradesh                        | Member ex-officio      |
| (iii) Nominee of Principal Secretary/Secretary, Horticulture Department, Government of Uttar Pradesh                      | Member ex-officio      |
| (iv) Nominee of Principal Secretary/ Secretary, Agriculture Department/Agriculture Education, Government of Uttar Pradesh | Member ex-officio      |
| (v) Nominee of Principal Secretary/Secretary, Animal Husbandry Department, Government of Uttar Pradesh                    | Member ex-officio      |
| (vi) Principal Chief Conservator of Forests, Uttar Pradesh  | Member ex-officio      |
| (vii) Five Specialist members   | Member                 |



Non-official  
Members of the  
Board:

4. Non-official Members of the Board shall be nominated by the State Government from amongst experts in the 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.

Special Invitees of  
the Board:

5. The Board may if it considers necessary invite an officer of the Finance Department, Fisheries Department or any person of eminent institute, any expert, or any person of Non Government Organisation as Special invitees to assist the Board in the performance of its functions.

Term of Office  
and Allowances of  
non-official  
Members:

6. (1) Every non-official member of the Board shall hold office for a term of three years from the date of publication of his appointment in the *Gazette*.

(2) Every non-official member attending the meeting of the Board shall be entitled to sitting allowance, travelling expenses, daily allowance and such other allowances as may be determined from time to time by the State Government.

Filling up of  
vacancies of non-  
official members:

7. (1) A non-official member of the Board may resign his office at any time by giving in writing under his hand addressed to the State Government and the seat of that member in the Board shall become vacant.

(2) A casual vacancy of a non-official member in the Board shall be filled up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the member in whose place he was nominated.

Removal of the  
members of the  
Board:

8. No member of the Board shall be removed from the office on any grounds specified in section 11 read with section 25 unless a due and proper enquiry is not made by the Secretary, Government of Uttar Pradesh Department of Forests for the purpose and without giving a reasonable opportunity of being heard.

Headquarters of  
the Board :

9. The Headquarters of the Board will be at Lucknow.

Secretary of the  
Board:

10. (1) The State Government shall appoint an officer of the rank of Additional Principal Chief Conservator of Forest / Chief Conservator of Forest / Conservator of Forest, Uttar Pradesh as Secretary of the Board.

(2) The Secretary shall be responsible for coordinating and convening the meetings of the Board, maintenance of the records of the proceedings of the Board and such other matters as may be assigned to him by the Board.

(3) The Secretary shall be responsible for day to day administration of the Board, management of funds and implementation of various activities or the programme under the guidance of the Chairperson of the Board.

(4) All orders or instructions to be issued by the Board shall be under the signature of the Secretary.

(5) The Secretary either himself or through an officer authorized for the purpose may sanction and disburse all payments within the limit of financial powers approved by the Board.

(6) The Secretary shall write and maintain confidential reports of all the officers and staff of the Board and shall get them countersigned by the Chairperson.

(7) The Secretary shall have powers for granting administrative, technical and financial sanctions as delegated by the Board.

(8) The Secretary shall exercise such other powers and perform such other functions as may be assigned to him from time to time by the Board or by the Chairperson.



11. (1) The Board shall meet at least four times in a year normally after a period of three months at the Headquarter of the Board or at such place as may be decided by the Chairperson.

(2) The Chairperson shall, upon a written request from not less than six Members of the Board or upon a direction of the State Government or the Central Government, call a special meeting of the Board.

(3) The members shall be given at least fifteen days' notice for holding an ordinary meeting and at least three days' notice for holding a special meeting specifying the purpose, the time and the place at which such meeting is to be held.

(4) Every meeting shall be presided over by the Chairperson and in his absence, by a presiding officer to be elected by the members present from amongst themselves.

(5) The decision of the Board at a meeting shall, if necessary, be taken by a simple majority of the Members present and voting.

(6) Each member shall have one vote.

(7) The quorum at every meeting of the Board shall be five.

(8) No Member shall be entitled to bring forward for the consideration of a meeting any matter of which he has not given ten days' notice unless the Chairperson may permits him to do so.

(9) Notice of the meeting may be given to the Members by delivering the same by messenger or sending it by registered post to his last known place of residence or business or in such other manner as the Secretary of the Board may, in the circumstances of the case, think fit.

(10) In addition the Board may evolve such other procedures for the transaction of its business as it may deem fit and proper.

Appointment of expert Committee by the board and their entitlements.

12. (1) The Board may constitute any number of Committees for such purposes as it may deem fit consisting wholly of members or wholly of other persons or partly of members or partly of other persons.

(2) The members of the Committee other than the members of the Board shall be paid such fees and allowances for attending the meetings as the Board may deem fit.

(3) The Board may invite any person whose assistance or advice is considered useful to obtain in performing any of its functions and to participate in the deliberations of any of its meetings. Such person associated with the Board shall be entitled to get allowances, as prescribed by the Board from time to time.

Other functions of the Board:

13. The other functions of the Board shall be,-

- (i) to provide technical assistance and guidance to the Departments of State Government;
- (ii) to perform such other functions as may be necessary to carry out the provisions of the Act;
- (iii) to identify the issues in Biodiversity conservation in Uttar Pradesh and to evolve Biodiversity strategy and Action Plan;
- (iv) to release of status of Biodiversity Report of Uttar Pradesh at suitable intervals and to evolve strategy and Action Plan;
- (v) to frame Biodiversity Policy of the State and establishment of Biodiversity Park;
- (vi) to adopt the different methods of activities for revenue generation such as fixed deposit, advertisement, sponsor, donations and such other methods etc.;
- (vii) to award individual, or as a group or as institution for innovation and contribution to the Biodiversity conservation of the State;



- (viii) commission studies, sponsor investigations and research, organize conferences / seminars / workshops / meetings on different fields;
- (ix) to engage consultant in different fields for a specific period not exceeding three years, for providing technical assistance to the Board in the effective discharge of its functions provided that if it is necessary and expedient to engage any consultant beyond the period of three years, the approval of the Board shall be necessary;
- (x) to collect, compile and publish technical and statistical data, manuals, codes relating to conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge;
- (xi) to organize through mass media (electronic media, website, print media brochures, newsletters, documentary films or innovative methods etc.) a comprehensive programme regarding conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge;
- (xii) to plan and organize local, Regional, National and International training as well as online training of all the stake holders for fulfilling the objectives of the Act;
- (xiii) to prepare the annual plan of operation, annual budget of the Board incorporating its own receipts;
- (xiv) to grant administrative, technical and financial sanctions to all the activities; and to delegate such administrative, technical and financial sanctions to the Chairperson or the Secretary of the Board as it may deem necessary;
- (xv) to recommend creation of posts to the State Government, for effective discharge of the functions by the Board and to create such posts;
- (xvi) to engage the persons on contract/deputation for the proper and effective functioning of the Board;
- (xvii) to take steps to build up data base and to create information and documentation system for biological resources and associated traditional knowledge through biodiversity registers and electronic data bases, to ensure effective management, promotion and sustainable uses;
- (xviii) to ensure that biodiversity and biodiversity-dependent livelihoods are integrated into all sectors of planning and management, and at all levels of planning from local to contribute effectively for conservation and sustainable use of bio-resources;
- (xix) to reinforce and guide the Biodiversity Management Committees for effective implementation of the Act;
- (xx) to report to the State Government about the functioning of the Board and carrying out the provisions of the Act;
- (xxi) to recommend, prescribe, modify, collection or distribution of fee in respect of biological resources from time to time;
- (xxii) to devise methods to ensure protection of rights including intellectual property rights over biological resources and associated knowledge including systems of maintaining confidentiality of such information as appropriate, including the protection of the information recorded in People's Biodiversity Registers;
- (xxiii) to sanction grants-in-aid and grants to Biodiversity Management Committees for specific purposes;



- (xxiv) to undertake physical inspection of any area in connection with the carrying out the provisions of the Act;
- (xxv) to take necessary measures including appointment of legal experts to oppose grant of intellectual property right on any biological resource and associated knowledge obtained from the State in an illegal manner;
- (xxvi) to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same;
- (xxvii) to provide the ways to manage and conserve heritage sites;
- (xxviii) to compensate or rehabilitate any section of the people economically affected by notification under sub section (1) of section 37 of the Act;
- (xxix) to conserve and promote biological resources;
- (xxx) to make socio economic development of areas from where such biological resources or knowledge associated has been accessed;
- (xxxi) to do such other functions as may be assigned to it or directed by the State Government from time to time or as decided by the Board from time to time.

The Chairperson shall-

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>14. (i) ensure that the affairs of the Board are run efficiently and in accordance with the provisions of the Act and the rules made there under;</li> <li>(ii) have the powers of general superintendence over the officers and staff of the Board and may issue necessary directions for the conduct and management of affairs of the Board;</li> <li>(iii) convene and preside over all the meetings of the Board and shall ensure that all decisions taken by the Board are implemented in proper manner;</li> <li>(iv) exercise such other powers and perform such other functions as may be assigned or delegated to him from time to time by the Board.</li> </ul>   | <p>Power and duties of Chairperson</p>   |
| <ul style="list-style-type: none"> <li>15. (1) Any person seeking approval of the Board for access to biological resources and associated knowledge for research or for commercial utilization shall make an application in Form -1 appended to these rules.</li> <li>(2) Every application under sub-rule (1) shall be accompanied by a demand draft of two thousand five hundred rupees subject to change from time to time by the Board</li> <li>(3) The Board shall after due appraisal of the application and collecting such additional information from the applicant and other sources, as it may deem necessary, dispose of the application, as far as possible, within a period of three months from the date of its receipts.</li> <li>(4) On being satisfied with the merit of the application, the Board may grant the approval for access to biological resources and associated knowledge subject to such terms and conditions as it may deem fit to impose.</li> <li>(5) The approval to access shall be in the form of a written agreement duly signed by an authorized officer of the Board and the applicant.</li> <li>(6) The conditions for access may specifically provide measures for conservation and protection of biological resources to which the access is being granted.</li> <li>(7) The Board may for reasons to be recorded in writing reject an application if it considers that the request cannot be acceded to.</li> <li>(8) No application shall be rejected unless the applicant is given a reasonable opportunity of being heard.</li> <li>(9) The Board shall take steps to widely publicize the approvals granted, through print or electronic media and shall periodically monitor compliance of conditions on which the approval was accorded.</li> </ul> | <p>Procedure for access to biological resources and associated traditional knowledge</p> |



Revocation of  
access or approval:

16. (1) The Board may either on the basis of any complaint or *suo-moto* withdraw the approval granted for access and revoke the written agreement under the following conditions, namely: -

(a) on the basis of reasonable belief that the person to whom the approval was granted has violated any of the provisions of the Act or the condition on which the approval was granted;

(b) when the person who has been granted approval has failed to comply with the terms of the agreement;

(c) on failure to comply with any of the conditions of access granted;

(d) on account of overriding public interest or for protection of environment and conservation of biological diversity;

(2) The Board shall send a copy of every order of revocation issued by it under sub-rule (1) to the concerned Board and the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

Restriction on  
activities related to  
access to biological  
resources:

17. The Board if it deems necessary and appropriate shall take the steps to restrict or prohibit the request for access to biological resources for the following reasons, namely: -

(a) the request for access is for any endangered taxa;

(b) the request for access is for any endemic and rare species;

(c) the request for access may likely to result in adverse effect on the livelihoods of the local people;

(d) the request to access may result in adverse environmental impact which may be difficult to control and mitigate;

(e) the request for access may cause genetic erosion or affecting the ecosystem function;

(f) use of resources for purposes contrary to National/ State interest and other related International/National/ State agreements entered into by India and there to the State of Uttar Pradesh.

Operation of State  
Biodiversity Fund:

18. (1) The State Biodiversity Fund shall be operated by the Secretary.

(2) The State Biodiversity Fund shall have three separate heads of accounts,

- one relating to the receipts (grants and loans) from the State Government,
- other head of the accounts shall be grants and loans received from the National Biodiversity Authority/Central Government,
- other concerning the fee, licence fee, registration fee, donations, sponsorships, advertisement, tariffs, royalty and other receipts of the Board.

(3) The State Government, shall after due appropriation made by the State Legislature by the law in this behalf, pay to the Board such sum of money as the State Government may think fit for being utilized for the purpose of the Act.

(4) The fund will be utilized to accomplish the general functions of the Board as mentioned in rule 13.

Annual Report and  
Annual Statement  
of Accounts:

19. (1) The Board shall prepare its annual report for each financial year giving detailed account of its activities and annual statement of accounts and submit the same to the State Government.

(2) The Board shall lay down the procedure for upkeep of the accounts. The accounts of the Board shall be audited annually by the Chartered Accountant appointed for the purpose by the Board. The Accountant General Uttar Pradesh may as well audit the accounts of the Board.



(3) The Board shall submit the Annual Report together with the audited statement of accounts for each financial year to the State Government by September each calendar year so as to enable the State Government to lay the reports before the Legislative Assembly.

20. The Board shall, in consultation with the concerned local bodies and other key stakeholders, take necessary steps to facilitate setting up of areas of significant biodiversity values as Heritage Sites.

21. (1) The Biodiversity Management Committee constituted in a local body under sub-section (1) of section 41 shall consist of not more than six members including a chairperson nominated by such local body, of whom not less than one third should be women and not less than 18% should belong to the Scheduled Castes/Scheduled Tribes.

(2) The Chairperson of a Biodiversity Management Committee shall be elected from amongst the members of the Committee in a meeting to be chaired by the Chairperson of the local body. The Chairperson of the local body shall have the casting votes in case of a tie.

(3) The Biodiversity Management Committee shall have tenure of three years.

(4) The local Member of Legislative Assembly/ Member of Legislative Council and Member of Parliament would be special invitees to the meetings of the Committee.

(5) The main function of the Biodiversity Management Committee shall be to prepare People's Biodiversity Register in consultation with local people. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them.

(6) The other functions of the Biodiversity Management Committee shall be to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local Vaid and practitioners using the biological resources.

(7) The Board shall take steps to specify the form of the People's Biodiversity Registers, and the particulars it shall contain and the format for electronic database.

(8) The Board shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers.

(9) The People's Biodiversity Registers shall be maintained and validated by the Biodiversity Management Committees.

(10) The Committee shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted, details of the collection fee imposed and details of the benefits derived and the mode of their sharing.

(11) In case of forest areas there may be Joint Forest Management Committees/Eco-development Committees, as determined by the Principal Chief Conservator of Forests, Uttar Pradesh in accordance with Acts/Rules/Directions of Hon'ble Supreme Court for the time being in force.

22. (1) The Board shall provide to the local body for crediting to the Local Biodiversity Fund constituted under section 43, any loan or grant received by it from the State Government, Central Government or from the Authority for the purpose of the Act. The local body can also access funds from other sources as it identifies, or as specified by the Board.

(2) The local biodiversity fund shall be operated by the Biodiversity Management Committees. The Board shall lay down the operational guidelines for operation of the fund by the Biodiversity Management Committees, including ways, in which its functioning is transparent and accountable to all members of the relevant local body.

Establishment  
and Management  
of Biodiversity  
Heritage Site:  
Constitution of  
Biodiversity  
Management  
Committees:

The  
management  
custody and the  
purposes of the  
application of  
Local  
Biodiversity  
Fund:



(3) The fund shall be utilised for the conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the local community in so far as such utilisation is consistent with conservation of bio-diversity.

(4) The account of the local biodiversity fund shall be prepared in such Forms as may be determined by the Board and during each financial year at such time as may be determined.

(5) The Biodiversity Management Committees shall prepare its Annual report, giving full account of its activities during the previous financial year, and submit a copy thereof to the Board and a copy to the general assembly of the local body.

(6) The accounts of the local bio-diversity fund shall be maintained and audited in such manner, as may be determined by the Board.

### **FORM - I**

See Rule 15

#### **Application Form to State Biodiversity Board to access Biological resources (See section 7 and 24\* of the Biological Diversity Act 2002)**

#### **Part - A**

1. Full Particulars of the applicant:
  - 1.1 Name of the applicant:
  - 1.2 Permanent address:
  - 1.3 Address of the contact person / agent, if any, in India:
  - 1.4 Profile of the organization (personal profile in case the applicant is an individual). Please attach relevant documents of authentication:
  - 1.5 Nature of business:
  - 1.6 Turnover of the organization /applicant in Indian Rupee.
2. Details and specific information about nature of access sought and biological material and associated knowledge to be accessed:
  - a) Identification (scientific name) of biological resources and its traditional use;
  - b) Geographical location of proposed collection;
  - c) Description /nature of traditional knowledge;
  - d) Any identified individual/community holding the traditional knowledge;
  - e) Quantity of biological resources to be collected: (give the Schedule);
  - f) Time span in which the biological resources is proposed to be collected;
  - g) Name and number of persons authorized by the company for making the selection;
  - h) The purpose for which the access is requested including the type and extent of research, commercial use being derived and expected to be derived from it;
  - i) Whether any collection of the resource endangers any component of biological diversity and the risks which may arise from the access.
3. Estimation of benefits that would flow to Committees arising out of the use of accessed bio resources and traditional knowledge.
4. Proposed mechanism and arrangements for benefit sharing.
5. Any other information considered relevant



## Part B DECLARATION

I/We declare that:

- Collection of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection of proposed biological resources shall not entail any environmental impact;
- Collection of proposed biological resources shall not pose any risk to ecosystems;
- Collection of proposed biological resources shall not adversely affect the local communities.

I/We further declare the information provided in the application Form is true and correct and I/we shall be responsible for any incorrect/wrong information.

Place .....

Date .....

Signature  
Name of the Applicant/ Organization  
and seal

\* Sec 24 of Biological Diversity Act 2002

24. (1) Any citizen of India or a body corporate, organization 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.

Power of State  
Biodiversity Board  
To strict certain  
activities:

(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's conservation, 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.

By Order,  
CHANCHAL KUMAR TEWARY,  
Pramukh Sachiv.