

FOREST, ECOLOGY AND ENVIRONMENT SECRETARIAT NOTIFICATION

No. FEE 151 ENV 2005, Bangalore, dated : 3rd May 2006

In exercise of the powers conferred under Section 63 of the Biological Diversity Act, 2002 (Central Act 18 of 2003), the Government of Karnataka here by makes the following rules, namely :-

1. Short title & Commencement :-

- (1) These Rules may be called the *Karnataka Biological Diversity Rules, 2005*
- (2) These rules shall come into force on the date of its publication in the Official Gazette

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

- a. "Act" means the Biological Diversity Act, 2002 (No. 18 of 2003)
 - b. "Authority" means the National Biodiversity Authority established under sub-section (1) of Section 8 of the Act.
 - c. "Board" means the Karnataka Biodiversity Board established under Section 22 of the Act
 - d. "Biodiversity Management Committee" means Committee established by the local bodies under Section 41 of the Act.
 - e. "Fee" means any fee stipulated in the schedule of these Rules
 - f. "Form" means form appended to these Rules
 - g. "Government" means the Government of Karnataka
 - h. "Member Secretary" means the Member Secretary of the Board
 - i. "Section" means section of the Act
- (2) Words and expressions used but not defined in these Rules and defined in the Act shall have the same meaning respectively assigned to them in the Act.

3. Manner of selection and appointment of the Chairperson :

The Chairperson of the State Biodiversity Board shall be appointed by the State Government.

- (1) Every appointment of Chairperson under sub-section (1) shall be made on the recommendation of the Search Committee consisting of Chief Secretary to Government and two members nominated by the State Government.

Provided that the Search Committee shall not recommend any person other than an officer not below the rank of Principal Secretary to the Government having special knowledge in the field of Biodiversity.

4. Term of officer of the Chairperson :

- (1) The Chairperson of the Board shall hold the office for a term of three years from the date on which he enters upon his office, but shall be eligible for re-appointment :

Provided that no Chairperson shall hold office as such after he has attained the age of sixty five years.

- (2) The Chairperson may, by one month notice in writing under his hand addressed to the State Government, resign his office.
- (3) Notwithstanding anything contained in sub-section (1) and (2) above, the Chairpersons shall hold office at the pleasure of the State Government.

5. Pay and Allowances of the Chairperson :

If a retired person is appointed as Chairperson, he shall be entitled to such salary, allowances, leave, house and other perquisites, as may be determined by the State Government from time to time.

6. Nomination and Term of office and allowances of non-official member :

- (1) Every non-official members of the Board shall hold the office for a term not exceeding three years from the date of publication of his appointment in the Official Gazette.
- (2) Every non-official Member of the Board shall be entitled to sitting allowance, traveling expenses, daily allowance and to such other allowances in accordance with the traveling allowance to non-official members of committees, commissions or other bodies Rules 2001 as amended from time to time.

7. Filling up of vacancies of non-official member :

- (1) A non-official member of the Board may resign from 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 of 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.

8. Removal of the Members of the Board :

No member of the Board shall be removed from the office on any grounds specified in Section 11 of the Act read with Section 25 of the Act, without due and proper enquiry by an officer not below the rank of Principal Secretary to State Government appointed by the State Government for the purpose and without giving a reasonable opportunity to be heard.

9. Appointment of the Ex-officio-Members:

Not more than five ex-officio members shall be appointed by the State Government to represent the concerned department of the State Government.

10. Member Secretary of the Board:

- (1) The Member Secretary shall be appointed by the State Government on deputation. He shall be a super – time scale officer of Indian

Forest Service or Indian Administrative Service having adequate knowledge and experience in conservation and Management of biological resources.

- (2) The terms and conditions of appointment shall be determined by the State Government by regulations.
- (3) The Member Secretary shall be responsible for co-ordinating and convening the meetings of the Board, maintenance of the records of the proceedings of the Board and such other matter as may be assigned to him by the Board.
- (4) All orders or instructions to be issued by the Board shall be under the signature of the Member Secretary or of any other officer authorized in this behalf by the Board.
- (5) The Member Secretary either himself or through an officer authorized for the purpose may sanction and disburse all payments against the approved budget.
- (6) The Member Secretary shall have powers to give administrative approvals to the estimates included in the budget of the Board.
- (7) The Member Secretary shall be in charge of all the confidential papers of the Board and shall be responsible for their safe custody; he/she shall produce such papers whenever so directed by the Board/Government.
- (8) The Member Secretary shall write and maintain confidential reports of all the officers and staff of the Board and shall get them counter signed by the Chairperson.
- (9) The Member Secretary shall exercise such other powers and perform such other functions as may be delegate to him from time to time by the Board;

11. Meetings of the Board:

- (1) The Board shall meet at least four times in a year normally after three months at the Head quarters of the Board or at such other place, as may be decided by the Chairperson.
- (2) The Chairperson shall, upon a written request from not less than five members of the Board or upon a direction of the State 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 three days notice of 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 the meeting shall, if necessary, be taken by a simple majority of the members present and voting and the Chairperson or in his absence; the member presiding shall have a second or casting vote.

- (6) Each member shall have one vote.
- (7) Quorum for the 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 in his discretion permits him to do so.
- (9) Notice of the meeting may be given to the member by delivering the same by messenger or sending it by registered post to his known place of residence or business or in such other manner, as the Member Secretary of the Board may, in the circumstances of the case, think fit.
- (10) In addition, the Board may evolve such other procedure for the transaction of its business as it may deem fit and proper.

12. Appointment of Expert Committee by the Board and their Entitlements:

- (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 expert committee other than the members of the Board shall be paid such fees and allowances for attending the meetings in accordance with sub-rule (2) of rule 6.
- (3) The tenure of such Committees shall not be more than three years.

13. General Powers and Functions of the Board:

In particular and without prejudice to the generality of other provisions, the Board may perform the following functions:

- i. lay down the procedure and guidelines to govern the activities provided under section 23 of the Act.
- ii. advise the State Government on any matter concerning conservation of biodiversity sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.
- iii. provide technical assistance and guidance to the departments of the State Government and Biodiversity Management Committee.
- iv. regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilisation of any biological resource by Indian nationals.
- v. facilitate updating and implementation of State Bio-diversity Strategy and Action Plan.
- vi. commission studies and sponsor investigations and research.
- vii. engage consultant 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 Board shall seek prior approval of the State Government for such an engagement.

- viii. collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of Biological bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.
- ix. organize through mass media a comprehensive program regarding conservation of biological bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising of the use of biological resource and knowledge.
- x. plan and organize training of personnel engaged or likely to be engaged in programs for the conservation of biological bio-diversity and sustainable use of its components
- xi. take steps to build up database and to create information and documentation system for biological resources and associated traditional knowledge through biodiversity registers and electronics data bases, to ensure effective management, promotion and sustainable uses.
- xii. give directions to the local bodies/Bio-diversity Management Committees in writing for effective implementation of the Act, and to facilitate their meaningful participation in all measures relating to conservation, sustainable use, and equitable benefit-sharing.
- xiii. report to the State Government about the functioning of the Board and implementation of the Act and the rules made there under.
- xiv. recommended, prescribe, modify, collection fee of biological resources from time to time.
- xv. 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.
- xvi. sanction grants-in-aid and grants to Bio-diversity Management Committees for specific purposes.
- xvii. undertake physical inspection of any area in connection with the implementation of the Act.
- xviii. 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 state, to enable such sectors and administrative levels to contribute effectively for conservation and sustainable use.
- xix. prepare the annual Budget of the Board incorporating its own receipts as also the devolution from the State and Central Government provided that the allocation by the Central Government shall be

operated in accordance with the budget provisions approved by the Central Government.

- xx. Board shall have full powers for granting administrative and technical sanctions to all the estimates; it may however, delegate such administrative and technical sanction powers to the Member Secretary of the Board as may be deemed necessary.
- xxi. recommend creation of posts to State Government, for effective discharge of the functions by the Board and to create such posts, provided that no such post whether permanent/temporary or of any nature, would be created without prior approval of the State Government.
- xxii. perform such other functions, as may be necessary to carry out the provisions of the Act or as may be prescribed by the State Government from time to time.
- xxiii. shall have power to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same.

14. Powers and duties of the Chairperson:

- (1) The Chairperson shall 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.
- (2) The Chairperson may issue necessary directions for the conduct and management of affairs of the Board.
- (3) The Chairperson shall 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.
- (4) The Chairperson shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board.

15. Procedure for prior intimation for obtaining biological resources:

- (1) Any person intending to obtain any biological resources and associated knowledge for research or for commercial utilization, with the excepting of those in the proviso to section 7 of the Act, shall give prior intimation to the Board by making an application in Form I.
- (2) Every application under sub-rule (i) shall be accompanied by a fee of one thousand rupees in the form of cheque or demand draft drawn in favour of the Board.
- (3) The Board shall, after consultation with the concerned local Biodiversity Management Committee and on collection of such additional information from the applicant and other resources, as it may deem necessary, dispose of the application, as far as possible, within a period of two months from the date of receipts.
- (4) While disposing the application under sub-rule (iii), the Board may by order, prohibit or restrict any activity deemed detrimental or contrary to the objectives of conservation and sustainable use of

biodiversity or equitable sharing of benefits arising out of such activity. The order shall be made after giving an opportunity of being heard to the applicant.

- (5) A written agreement duly signed by an authorized officer of the Board and the applicant shall govern the access / collection. The form of the agreement shall be decided by the Board.
- (6) The conditions for access to / collection may specifically provide measures for conservation and protection of biological resources to which the access to / collection is being granted.
- (7) Any information given in the form referred to in the sub-rule (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

16. Revocation of access / approval :

- (1) The Board may either on the basis of any complaint or suo moto withdraw the access granted and revoke the written agreement under the following conditions :
 - i. on the basis of reasonable belief that the person accessing the said bio-resource has violated any of the provisions of the Act or the condition on which application was allowed
 - ii. when the person has failed to comply with the terms of agreement ;
 - iii. on failure to comply with any of the conditions of access ;
 - iv. on account of overriding public interest with reference to protection of environment and conservation of biological diversity, and protection of the rights, livelihoods, and knowledge of local communities ;
- (2) The revocation order shall be made only after making such inquiries as required after giving the person so affected an opportunity of being heard.
- (3) The Board shall send a copy of such revocation order to the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

17. Restriction on activities related to access to biological resources

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

- i. the request for access is for any threatened taxa, or taxa that is likely to become threatened due to such access ;
- ii. the request for access is for any endemic and rare species
- iii. the request for access may likely result in adverse effect on the livelihoods, culture, or indigenous knowledge of the local people ;

- iv. the request to access may result in adverse environmental impact which may be difficult to control and mitigate ;
 - v. the request for access may cause genetic erosion or affecting the ecosystem function ;
 - vi. use of resources for purposes contrary to national interest and other related international agreements entered into by the country.
- (2) Any order of restriction shall be made only after making such inquires as required ; consulting the concerned local bodies and Biodiversity Management Committees, and giving the person so affected an opportunity of being heard.

18. Operation of State Biodiversity Fund :

- (1) The State Bio-diversity Fund shall be operated by the Member Secretary of the Board or by such any other officer of the Board as may be authorized by the Board in this behalf.
- (2) The State Bio-diversity Fund shall have two separate heads of accounts, one relating to the receipts (grants and loans) from the Central Government / National Bio-diversity Authority and State Govt, including receipts from such other sources as decided by the Board and the other concerning the fee, licence fee, royalty, 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 Board shall frame guidelines on ways to ensure that decisions regarding the management and use of the Fund are transparent and accountable to the public.

19. Annual Report and Annual Statement of Accounts :

- (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 accounts of the Board shall be maintained and audited, in consultation with and as prescribed by the Accountant General of the State. The Board shall submit a copy of the audited accounts together with auditor's report thereon to the State Government by October 15th of each year.
- (3) The Annual Report on activities of previous financial year shall be prepared in the manner prescribed under Form II by the Board and submitted to the Government by October 15th of each year.
- (4) The State Government shall cause the annual report and the auditor's report to be laid, as soon as, may be after they are received, before the State legislature.

20. Establishment and Management of Biodiversity Heritage Sites:

- (1) The Board shall, in consultation with the local bodies and other key stakeholders, take necessary steps to facilitate setting up of areas of significant bio-diversity values as Heritage Sites. Following recommendation from the Board and after consultation with the Central Government, the State Government shall issue notification to this effect.

21. Constitution of Biodiversity Management Committees :

- (1) Every local body shall constitute a Biodiversity Management Committee (BMCs) within its area of jurisdiction.
- (2) The Biodiversity Management Committee as constituted under sub-rule (1) shall consist of a Chairperson and not more than six persons nominated by the local body, of which not less than one third should be women and not less than 18% should belong to the Scheduled Castes/Scheduled tribes.
- (3) The Chairperson of the 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.
- (4) The Chairperson of the Biodiversity Management Committee shall have tenure of three years.
- (5) The local Member of Legislative Assembly / Member of Legislative Member of Parliament would be special invitees to the meetings of the Committee.
- (6) The following officers shall be the Secretaries of respective Biodiversity Management Committee.
 - (i) Grama Panchayath BMC - Secretary of the GP
 - (ii) Taluk Panchayath BMC - Executive Officer of the TP
 - (iii) Zilla Panchayath BMC - Chief Executive Officer of the ZP
 - (iv) Municipality BMC - Chief Officer of the Municipality
 - (v) Corporation BMC - Commissioner of the Corporation
- (7) The Main function of the Biodiversity Management Committee is 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.
- (8) The other functions of the Biodiversity Management Committee are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local vjads and practitioners using the biological resources.

- (9) The Authority and the State 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.
- (10) The Authority and the State Biodiversity Boards shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers.
- (11) The People's Biodiversity Registers shall be maintained and validated by the Biodiversity Management Committees.
- (12) 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.

22. Local Biodiversity Funds :

- (1) The Local Biodiversity Fund constituted and applied as under sections 42, 43 and 44 shall be operated under the seal and signature of the Chairperson of the respective Biodiversity Management Committee. The Fund shall have two separate heads of accounts, one relating to receipts from the Authority, Government (Central and State) and the Board and other concerning fees and other receipts of the Biodiversity Management Committee.
- (2) The funds of the local Biodiversity fund shall be drawn by joint signatures of the Chairman and Secretary of the respective Biodiversity Management Committee.
- (3) The Accounts of each committee shall be maintained and audited, in consultation with and as prescribed by the Accountant General of the State.
- (4) The Biodiversity Management Committee shall prepare its annual report of activities for each financial year as specified in Form III.
- (5) The Biodiversity Management Committee shall submit the Annual Report, and copy of Audited Statement of Accounts together with a copy of Auditor's Report to the Deputy Commissioner of the District by October 15th of every year

23. Appeal for settlement of disputes :

- (1) a. If a dispute arises between the Authority and Board or between one Board and other Board(s) on account of implementation of any order/direction or any issue of policy decision, either of the aggrieved parties i.e. Authority or the Board, as the case may be, prefer an appeal under Section 50 of the Act, in Form IV appended to these rules to the Secretary, Ministry of Environment and Forests Government of India or to the Chairperson, National Bio-Diversity Authority.
- b. If a disputes arises between Biodiversity Management Committee and Karnataka Biodiversity Board or among Biodiversity Management Committees or between the

Biodiversity Management Committees and local bodies on account of implementation of any order/direction or on any issue of policy decision either of the aggrieved parties i.e. Biodiversity Management Committee or local bodies as the case may be prefer appeal under Section 50, in Form V appended to these rules to the Secretary (Ecology & Environment), Government of Karnataka.

- (2) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant and the relief sought for, for preferring the appeal and shall be accompanied by an authenticated copy of the order, direction or policy decision, as the case may be, by which the appellant is aggrieved. The memorandum of appeal shall be duly signed by the authorized representative of the appellant.
- (3) The memorandum of appeal shall be submitted in quadruplicate accompanied with the authenticated copy of the order, direction or policy decisions as the case may be, by which the appellant is aggrieved, either in person or through a registered post with acknowledgement due, within thirty days from the date of the order, direction or policy decision.

Provided that if the Appellate Authority is satisfied that there was good and sufficient reason for the delay in preferring the appeal, the Appellate Authority, for reasons to be recorded in writing allow the appeal to be preferred after the expiry of the aforesaid period of thirty days but before the expiry of forty-five days from the date of the order, directions, or policy decision as the case may be.

- (4) The notice for hearing of the appeal shall be given in Form VI or Form VII as the case may be by a registered post with an acknowledgement due.

By Order and in the Name of the Governor of Karnataka

N. R. JAGANMATHA

Under Secretary to Government

Forest, Ecology and Environment Department

