

Government of Nagaland
Department of Forest, Ecology, Environment and Wildlife
Nagaland : Kohima

NOTIFIED
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Notification

Dated Kohima, the 22nd of Sept.2012

FOR/WORKS-11/2004: In exercise of the powers conferred by Sec.63(1) of the Biological Diversity Act, 2002 the Governor of Nagaland is pleased to make the following rules namely :-

1. Short title and commencement

- (1) These Rules may be called "Nagaland Biological Diversity Rules, 2012".
- (2) They shall come into force with effect from the date of issue of notification.
- (3) These Rules are applicable to the entire state of Nagaland.

2. Definitions

In these Rules, unless the context otherwise requires:

- (1) "Act" means the Biological Diversity Act, 2002 (No. 18 of 2003);
- (2) "Authority" means the National Biodiversity Authority established under sub section (1) of section 8 of the Act;
- (3) "Board" means the Nagaland State Biodiversity Board established under section 22 of the Act;
- (4) "Biodiversity Management Committee" means Committee established by the local bodies under section 41 of the Act;
- (5) "Chairperson" means the Chairperson of the Board or of the Biodiversity Management Committee as the case may be;
- (6) Community Intellectual Property - means documented, undocumented or oral, traditional knowledge, wisdom or practices of the community relating but not limited to use of medicinal plants or plant varieties or any other biological resource that exclusively belong to the community having commercial (monetary) or potential commercial value and/or protectable under copyright, patent, service mark, trade mark, geographical indication or trade secret laws from imitation, infringement and dilution. Such community intellectual property includes brand names, discoveries, formulae and inventions among others;
- (7) "Consultation" with its cognate and grammatical variations for the purposes of the Act and Rules, includes issuing of public notice in local dailies of the proposal; discussion and dialogue with the general assembly of the local body; and formal written consent from the assembly after providing full and prior information about the proposal for access, collection, sampling and its implications for conservation and livelihoods;
- (8) "Fee" means any fee as may be prescribed under the Rules;
- (9) "Form" means form appended to the Rules;
- (10) "Local bodies" as defined in section 2(h) of the Act also includes Village Council as one of its parts as defined in Nagaland Village Council Act 1978 vide Nagaland Act No. 1 of 1979;
- (11) "Member" means member of National Biodiversity Authority, Board, Biodiversity Management Committee or the Tribal Hoho Biodiversity Management Committee and includes the Chairperson thereof;

- (12) "Member Secretary" means the Member Secretary of the Board; or of the Biodiversity Management Committee as the case may be;
- (13) "Person" includes Biodiversity Management Committee for the purposes of Rule 28 and section 52 of the Act;
- (14) "Section" means section of the Act;
- (15) "State Government" means the Government of Nagaland;
- (16) "Tribal Hoho Biodiversity Management Committee" is a federation of Biodiversity Management Committees established under section 41 of the Act under the aegis of the respective Hoho by whatever name called;
- (17) Words and expressions used but not defined in the Rules and defined in the Act shall have the same meaning respectively assigned to them in the Act.

3. Establishment of State Biodiversity Board

- (1) The Board shall be an autonomous body to look after its administrative and financial matters aided by the central and the state government and carrying out its technical and scientific functions under the Act and in conformity with Naga customs and traditions. The Board shall consist of twelve members including the Chairperson, five ex-officio members, five non official members and one Member Secretary appointed by the state government.
- (2) The Head Office of the Board shall be at the state capital or any other place which the state government so decides. The Board shall have its own secretariat facilitated and supported by the state government.

4. Manner of selection and appointment of the Chairperson.

- (1) The Chairperson of the Board shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biodiversity and in matters relating to the equitable sharing of the benefits. He/she should be a well known scientist, conservationist, naturalist or a scholar of a state or central university and generally a person with experience of administration.
- (2) The Chairperson of the Board shall be appointed by the state government and shall be accorded a rank equivalent to a Minister of State in the state government.
- (3) The appointment of the Chairperson shall be done on the recommendations of the three member committee appointed by the government constituted for the purpose and based on the above criteria in sub section 1.

5. Term of Office of the Chairperson

- (1) The Chairperson of the Board shall hold the office for a term of three years and shall be eligible for re-appointment. Provided that no Chairperson shall hold office beyond the age of 65 years or beyond two terms whichever is earlier.
- (2) The Chairperson may resign from office by giving at least one month notice in writing to the state government.

- (3) Notwithstanding any other provision of these Rules, continuance of the Chairperson the office shall be at the pleasure of the state government.

6. Pay and Allowances of the Chairperson

The Chairperson shall be entitled to such salary, allowances, leave, house and other perquisites, as may be determined by the state government from time to time.

7. Powers and Functions 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 thereunder.
- 2) The Chairperson shall have the powers of general superintendence over the officers, staff and members of the Board and 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 a proper manner.
- 4) The Chairperson shall exercise such other powers and perform such other functions as may be delegated from time to time by the Board.
- 5) The Chairperson may also delegate powers and functions in exigencies to any member of the Board.

8. Nomination and Term of Office and allowances of non-official member

- (1) Five non-official members 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, shall be nominated by the state government in consultation with the Chairperson of the Board. At least two of these members shall be experts nominated from local communities.

Such members may include:

- a. an eminent scientist in the concerned field working with any national or state level institute;
- b. the Vice Chancellor of the Nagaland University or any other subject matter expert from the University;
- c. biodiversity/intellectual property related legal expert;
- d. any other expert preferably a woman as may be nominated by the state government.

The non-official Member of the Board shall hold the office for a term not exceeding three years at a time from the date of nomination.

- (2) The term of the non-official members, including the Chairperson shall as far as possible be co-terminus with each other.
- (3) The non-official Member shall be entitled to sitting allowance, travel expenses, daily allowance and to such other allowances, as may be fixed by the state government for attending the meeting(s) of the Board.

9. Filling up of vacancies of non-official member

- (1) A non-official member of the Board may resign from office at any time by giving in writing addressed to the state government and the seat of that member in the Board shall become vacant.
- (2) A vacancy in the Board shall be filled up by a fresh nomination in accordance to Rule 8 and the person nominated to fill the vacancy shall hold office for the remaining term and may be reappointed for a full term of three years.

10. Removal of the Members of the Board

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

11. Appointment of the Ex officio Members

Five ex-officio members shall be appointed from Agriculture and allied, Forest and Environment and other related departments of the state government as long as they hold their respective office. These may include:

- (1) Agricultural Production Commissioner;
- (2) Principal Chief Conservator of the Forests;
- (3) Secretary, Department of Tourism;
- (4) Secretary, Department of Science and Technology;
- (5) Secretary, Department of Women Development.

12. Terms and conditions of service of employees of the Board

- (1) The terms and conditions of the employees of the Board shall be same as those of corresponding scale of pay under the state government, the appointments in general shall be on contractual basis or on deputation, unless otherwise decided by the state government.
- (2) The Board shall approve the method of recruitment and promotion to the posts in the Board.

13. Member Secretary of the Board

- (1) The Member Secretary shall be appointed by the state government who is either a senior serving officer of the state government or on deputation. In case of being appointed on deputation, the terms and conditions of appointment shall be determined by the state government.
- (2) The Member Secretary shall be responsible for day to day administration of the Board, management of funds and implementation of various activities of the programme under the guidance of the Chairperson of the Board.

- (3) 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.
- (4) The Member Secretary or an officer authorized for the purpose may sanction and disburse all payments against the approved budget.
- (5) The Member Secretary shall have powers to give administrative approval to the estimates included in the budget of the Board.
- (6) The Member Secretary shall have the powers to give grants to various individuals and organizations including non government organisations, Biodiversity Management Committees and other such institutions as per the approved and en-block sanctioned budget and work programme of the Board. The Member Secretary shall also have powers to sign Terms of References for the same.
- (7) The Member Secretary shall have powers to sign Agreements and Memorandum of Understandings with various local, national and international organisations after the due approval of the Board.
- (8) 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 of Nagaland.
- (9) The Member Secretary shall write and maintain confidential reports of all the officers and staff of the Board and shall get them countersigned by the Chairperson.
- (10) The Member Secretary shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board.

14. Meeting of the Board

- (1) The Board shall meet at least twice in a year ordinarily after six months at the head quarter 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 Member Secretary shall give a notice not less than fifteen days for an ordinary meeting and not less than three days notice for a special meeting specifying the purpose, the time and the place, at which such meeting is to be held.
- (4) The Chairperson shall preside over every meeting and in his/her absence a presiding officer shall be elected from amongst the members present.
- (5) The decision of the Board shall ordinarily be taken by a simple majority of the members present and voting. The Chairperson or in his/her absence, the presiding member shall have a casting vote.
- (6) In case applications under Rule 18 or appeals under Rule 28, there shall be absolute majority of the Board for every such decision.
- (7) Each member shall have one vote.
- (8) Quorum for the meeting of the Board shall be six members.
- (9) No member shall be entitled to bring forward for the consideration of a meeting any matter of which s/he has not given ten days notice unless the Chairperson in his discretion permits him/her to do so.

- (10) Notice of the meeting may be given to the member 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 Member Secretary of the Board may, in the circumstances of the case, think fit.
- (10) No act or proceeding of the Board shall be invalidated merely by reason of:
 - a. Any vacancy in, or any defect in the constitution of the Board;
 - b. Any defect in the appointment of a person acting as a member;
 - c. Any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.
- (11) In addition, the Board may evolve such other procedure for the transaction of its business as it may deem fit and proper.

15. Appointment of Expert Committee by the Board and their Entitlements

- (1) The Board may constitute any number of committees for the purposes of the Act 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 may include local knowledgeable experts and other persons whose advice could be of value to the Biodiversity Management Committee.
- (3) The members of the expert 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.
- (4) 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.

16. General functions of the Board

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

- (1) Lay down the procedure and guidelines to govern the activities provided under section 23 of the Act;
- (2) 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;
- (3) Provide technical assistance, guidance and support to the departments of the state government, Biodiversity Management Committees and strengthen individuals and institutions who are already working towards conservation, sustainable use, and equitable benefit sharing of biological resources;
- (4) Formulate criteria and frame guidelines for access, approval and licensing mechanism for commercial utilisation, bio-survey and bio-utilisation, bio-prospecting and material transfer of any biological resource by Indian nationals and/or any government or private body or persons, excluding foreign entities or persons. Provided that the provision of this

- Rule shall not apply to the local people and communities in the area who use the resources for bonafide livelihood and other subsistence needs and/or is conforming to Naga customs and practices;
- (5) Regulate by granting of approvals or otherwise requests for commercial utilisation, bio-survey and bio-utilisation, bio-prospecting and material transfer of any biological resource by Indian nationals. Provided that the provision of this Rule shall not apply to the local people and communities in the area who use the resources for bonafide livelihood and other subsistence needs and/or is conforming to Naga customs and practices;
 - (6) Update and implement the Nagaland State Biodiversity Strategy and Action Plan;
 - (7) Commission studies and sponsor investigations and research in the field of conservation and sustainable use of biodiversity and fair and equitable sharing of the benefits arising from its commercial use or for any other purposes of the Act;
 - (8) Collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of biological diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge;
 - (9) Organise comprehensive programs including mass media and other innovative communication strategies regarding conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biodiversity and sustainable use of its components;
 - (10) Plan and organise training and capacity building of officials, non government organisations and other organisations for the conservation of biodiversity and sustainable use of its resources;
 - (11) Build data base and create a knowledge management system on biological resources and associated traditional knowledge through Peoples' Biodiversity Registers; provided that free and full prior informed consent on mutually agreed terms is obtained from knowledge keepers and sources and that the ownership continues to rest with them;
 - (12) Work in consultation with Biodiversity Management Committees and local bodies and facilitate them;
 - (13) Prepare eco-tourism and eco-development codes for biodiversity significant areas;
 - (14) Monitor and evaluate Biodiversity Management Committees and give awards and incentives;
 - (15) Dissolve Biodiversity Management Committees on poor performance in consultation with or on the recommendation of the Village Council;
 - (16) Inventorise and monitor the biological diversity with suitable criteria and indicators as may be developed;
 - (17) Protect right of access to biodiversity and community intellectual property right or other associated knowledge on biodiversity and its uses;
 - (18) Approval and en-block sanction of the annual budget and work programme;
 - (19) Approve the method of recruitment or promotions of the Board employees;
 - (20) Report to the state government about the functioning of the Board and implementation of the Act and the Rules made thereunder;

- (21) Prepare the format for People's Biodiversity Registers and ensure recording of relevant information regarding biological resources in the People's Biodiversity Registers by every Biodiversity Management Committees within its jurisdiction. The Register shall contain comprehensive information on traditional healers, traditional biodiversity conservation practices and indigenous knowledge systems related to medicines, agriculture or any other use;
- (22) Devise methods and protocols including "prior art search" and linkages to processes such as Traditional Knowledge Digital Libraries to ensure protection of information and systems for maintaining confidentiality and prevent abuse of such information recorded in People's Biodiversity Registers, and rights including community intellectual property rights over biological resources and associated knowledge;
- (23) Provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers, and shall ensure that all information recorded in such Registers receives legal protection against misuse and appropriation by outside agencies and individuals;
- (24) Formulate guidelines to prescribe, modify from time to time, fee for access and use of biological resources in consultation with the concerned Tribal Hoho Biodiversity Management Committees;
- (25) Formulate operational guidelines for fund utilisation and management by the Biodiversity Management Committees, including ways, in which its functioning is transparent and accountable;
- (26) Sanction grants-in-aid and grants to Biodiversity Management Committees for specific purposes;
- (27) Undertake physical inspection of any area in connection with the implementation of the Act;
- (28) Ensure that biodiversity and biodiversity dependent livelihood concerns are integrated into all sectors of planning and management for conservation and sustainable use;
- (29) Prepare the Annual Budget of the Board incorporating its own receipts as also the devolution from the state and central government;
- (30) Frame guidelines on ways to ensure that decisions regarding the management and use of the State Biodiversity Fund are transparent and accountable to the public;
- (31) Grant administrative and technical sanctions to all the estimates;
- (32) Recommend creation of posts to the state government for effective discharge of the functions by the Board;
- (33) Source funds from the Consolidated Fund of Nagaland to undertake programmes that mainstream biological diversity concerns within the state;
- (34) Shall have power to acquire, hold and dispose of property of the Board, both movable and immovable and enter into contracts, agreements and/or understandings for the same;
- (35) Strengthen, support and integrate other institutions or initiatives involved in the conservation of biological diversity; and
- (36) 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.

17. Special functions of the Board

The Board shall be specially empowered to carry out its functions in conformity with Naga customary laws and practices concerning land use, religious, traditional, customary and cultural practices.

- (1) The Board shall specifically take into account the following:
 - a) Rights of local people in privately owned forest, including community rights of clan or khel in such privately owned forest;
 - b) Rights of individual or community to access biological resources and trees from clan or village forest for construction of houses;
 - c) Residual community rights in forest.
- (2) The Board shall facilitate documentation of the traditional laws, customs and practices of Naga tribes and communities especially concerning biodiversity conservation and sustainable use including community traditional knowledge related to biodiversity having potential for commercial utilisation.
- (3) Prepare an inventory of biodiversity rich and sensitive areas in the state and request the Nagaland State Environment Impact Assessment Authority (NSEIAA) and Nagaland State Environment Appraisal Committee (NSEAC) for carrying out or granting permission for development activities in or in proximity to such areas.
- (4) Monitor and regulate developmental activities in the state's biodiversity rich and sensitive areas.

18. Procedure for access to/collection of biological resources

- (1) Any person seeking access to or collection of biological resources and associated knowledge for research or for commercial utilisation shall make an application to the Board in Form-I appended to these Rules. Every application shall be accompanied by a fee of ₹100 in case such access is for research purpose and ₹ 1000 for commercial utilisation or as modified from time to time, and shall be in the form of a Cheque or Demand Draft. Provided that such fee shall not be applicable to recognised traditional Naga healers.
- (2) The Board shall consult Biodiversity Management Committees and Village Councils and invite objections and claims from benefit claimers for benefit sharing. Such notice shall conform to the provisions of section 24 of the Act.
- (3) The Benefit Claimers may file their objections and claims in the prescribed form with the Biodiversity Management Committees within the respective Village Councils within a period of two months of receiving such a notice. It shall be the duty of such Biodiversity Management Committees to assist the Benefit Claimers in filing their claims, compile all the claims received and submit them to the Board.
- (4) The Board after due appraisal of the application and scrutiny of claims and objections received from benefit claimers after collecting such additional information, as it may deem necessary, shall decide the application, as far as possible, within a period of three months of receipt of the same. On being satisfied with the merit of the application, the Board may allow the application or restrict any such activity if it is of the 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.

- (5) A written tripartite agreement duly signed by the Member Secretary or an authorised officer of the Board, the applicant and the respective Biodiversity Management Committees shall govern the access and collection. The form of the agreement shall be prescribed by the Board.
- (6) The conditions for access to or collection may specifically provide measures for conservation and protection of biological resources to which the access to or collection is being granted.
- (7) The Board may reject the application if it considers that the request cannot be acceded to after recording the reasons thereof. Before passing an order of rejection, the applicant shall be given a reasonable opportunity of being heard.
- (8) 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.

19. Revocation of access/approval:

- (1) The Board may either on the basis of any complaint or suo moto withdraw the access granted to the applicant and revoke the written agreement under the following conditions:
 - a. 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;
 - b. When the person has failed to comply with the terms of agreement;
 - c. On failure to comply with any of the conditions of access;
 - d. 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;
 - e. On misleading or incorrect information furnished at the time of application.
- (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 concerned Biodiversity Management Committees and Village Councils for prohibiting the access and to also assess the damage, if any, caused and take steps to recover the damage.

20. Restriction on activities related to access to biological resources

- (1) The Board, if it deems necessary and appropriate, may take the steps to restrict or prohibit the request for access to biological resources for the following reasons:
 - (a) the request for access is for any threatened taxa, or taxa that is likely to become threatened due to such access;
 - (b) the request for access is for any threatened and rare endemic species;

- (c) the request for access may likely to result in adverse effect on the livelihood, culture, indigenous knowledge or customs of the local community;
 - (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 affect the ecosystem function;
 - (f) use of resources for purposes contrary to national interest and other related international agreements entered into by the central government.
- (2) Any order of restriction shall be made only after making such inquiries as required; consulting the concerned Village Council and Biodiversity Management Committees, and giving the person so affected an opportunity of being heard.

21. Operation of State Biodiversity Fund

- (1) The State Biodiversity Fund created by section 32 of the Act shall be operated by the Member Secretary of the Board or by any other officer of the Board as may be authorised by the Board in this behalf.
- (2) The State Biodiversity Fund shall have two separate heads of accounts, one relating to the receipts (grants and loans) from the central government/National Biodiversity Authority and the state government; and the second concerning the fee, license fee, royalty and including such other sources as decided by 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 it may think fit for being utilised for the purpose of the Act.
- (4) The accounts of the State Biodiversity Fund shall be audited in accordance with section 34 of the Act.
- (5) 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.

22. Annual Report and Annual Statement of Accounts

- (1) The Board shall prepare its Annual Report of each financial year giving detailed account of its activities and annual statement of accounts and submit the same to the state government. The Annual Report shall also contain details of the programs for biodiversity conservation, sustainable use and fair and equitable benefit sharing proposed for the next year along with the estimate of funds required to carry out such programs. The Annual Report shall be submitted in the format prescribed by the state government on or before January 31 every year.
- (2) 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 year so as to enable the state government to lay the reports before the State Legislative Assembly.

23. Establishment of Tribal Hoho Biodiversity Management Committee

- (1) Every Tribal Hoho shall constitute a Tribal Hoho Biodiversity Management Committee.

- (2) The Tribal Hoho Biodiversity Management Committee shall comprise not more than six members from various Biodiversity Management Committees representing the range or area; and not more than six ex-officio members representing the different line departments at the district level including forests, rural development, land resources, agriculture, horticulture, soil and water conservation and veterinary and animal husbandry.
- (3) The Chairperson and Member Secretary shall be nominated by the tribal Hoho from amongst themselves to manage the day to day activities and functions of the Tribal Hoho Biodiversity Management Committee.
- (4) Respective Members of the Legislative Assembly may be special invitees to the meetings of the Tribal Hoho Biodiversity Management Committee.
- (5) A Technical Support Group comprising experts in the field of biodiversity drawn from government agencies, non government organisations, academia, community and individuals shall be established at the district level. The expert group shall lend support to the Tribal Hoho Biodiversity Management Committees.
- (6) The Tribal Hoho Biodiversity Management Committee shall be responsible for collating and annually updating a Tribal Hoho level People's Biodiversity Registers database and submit to the State Biodiversity Board. The Tribal Hoho Biodiversity Management Committee shall be responsible and accountable for the confidentiality of the information so provided.
- (7) The Tribal Hoho Biodiversity Management Committee shall strive to mainstream biodiversity conservation concerns in the developmental planning at local level within their jurisdiction.
- (8) The Tribal Hoho Biodiversity Management Committee shall operate its account in accordance to the norms prescribed by the Board.
- (9) The Tribal Hoho Biodiversity Management Committee in consultation with the Biodiversity Management Committees may decide the terms on which to permit access to biodiversity resources and associated knowledge to different parties for various purposes within their jurisdiction and levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purpose from the area falling within its jurisdiction. Four fifth (4/5th) share of the levy charged for the material collected/cultivated from private land should be given to the owner/cultivator of the land/ knowledge holder and the balance one fifth (1/5th) should be deposited in Local Biodiversity Fund of Biodiversity Management Committee under a separate bank account;
- (10) The Board shall after due appropriation pay to the Tribal Hoho Biodiversity Management Committee such sum of money as the Board may think fit for being utilised for the purpose of the Act. The Tribal Hoho Biodiversity Management Committee may also raise funds for biodiversity related projects and programmes.
- (11) The accounts of the Tribal Hoho Biodiversity Management Committee shall be audited in accordance with section 34 of the Act.

24. Establishment of Municipality or Town Council or Town Committee Biodiversity Management Committee

- (1) Each Municipality or Town Council or Town Committee may constitute their respective Biodiversity Management Committee.
- (2) Each such Biodiversity Management Committee shall have representatives from ward or sector within their jurisdiction comprising not more than ten members who may be nominated by the respective Municipality or Council or Committee.
- (3) Each such Biodiversity Management Committee shall elect a Chairperson and Member Secretary from amongst themselves to manage the day to day activities and functions of their Biodiversity Management Committee.
- (4) Respective Members of the Legislative Assembly may be special invitees to the meetings of such Biodiversity Management Committee.
- (5) Each such Biodiversity Management Committee may draw support from the Technical Support Group constituted at the district level under Rule 25 (5).
- (6) Each such Biodiversity Management Committee shall strive to mainstream biodiversity conservation concerns in the developmental planning at local level within their jurisdiction.
- (7) Each such Biodiversity Management Committee shall operate its account in accordance to the norms prescribed by the Board.
- (8) The Board shall after due appropriation pay to such Biodiversity Management Committee such sum of money as the Board may think fit for being utilised for the purpose of the Act. Each such Biodiversity Management Committee may also raise funds for biodiversity related projects and programmes.
- (9) The accounts of such Biodiversity Management Committee shall be audited in accordance with section 34 of the Act.

25. Constitution of Biodiversity Management Committee

- (1) Every recognised Village Council shall constitute a Biodiversity Management Committee within its area of jurisdiction. The Village Council shall pass a resolution to form a Biodiversity Management Committee representing all khels and clans within the community and accordingly inform the Board and the Tribal Hoho Biodiversity Management Committee.
- (2) The Biodiversity Management Committee constituted under sub rule 1 shall have seven persons nominated by the Village Council of whom not less than one third shall be women.
- (3) The Biodiversity Management Committee shall elect from amongst its members the Chairperson who shall also have the casting vote in case of a tie; and a Secretary who is preferably a woman.

26. Functions of Biodiversity Management Committee

- (1) The Biodiversity Management Committee shall formulate its own code for biodiversity conservation in accordance with the Act to ensure conservation, sustainable utilisation and equitable sharing of benefits from the biodiversity.

- (2) The Biodiversity Management Committee shall prepare People's Biodiversity Registers. The People's Biodiversity Registers shall contain comprehensive information on availability and knowledge of local biological resources, traditional healers, biodiversity conservation practices and traditional knowledge and traditional ecological knowledge systems related to medicines, agriculture or any other use.
- (3) The People's Biodiversity Registers shall be prepared at the village by using the process and the format set by the Board. The Biodiversity Management Committee and Village Council shall be responsible for ensuring the immediate protection of the knowledge recorded in the People's Biodiversity Registers, especially to regulate its access to outside agencies and individuals.
- (4) The Biodiversity Management Committee shall also advise on any matter referred to it by the Board or Authority for granting approval.
- (5) The Biodiversity Management Committee shall document 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.
- (6) The Biodiversity Management Committee shall collect the prescribed fee for access and use of biological resources in their respective jurisdiction.
- (7) The Biodiversity Management Committee shall prepare a village level Biodiversity Management and Conservation Plan and shall seek approval of the Village Council.
- (8) The Biodiversity Management Committee shall work in coordination with Joint Forest Management Committees and Forest Protection Committees if constituted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules made thereunder and community based initiatives in matters related to biological diversity especially in reserved forests, protected areas, critical wildlife habitat, critical tiger habitat, buffer areas, core and sensitive areas and other biodiversity rich areas.
- (9) Assist the Board in preparing the eco-tourism and eco-development codes in biodiversity rich and sensitive areas.
- (10) The Biodiversity Management Committee as well as other persons having bonafide rights shall in accordance with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules made thereunder have access to biodiversity and document community intellectual property rights and such rights shall be vested and protected for any commercial or potential commercial value.
- (11) Without prejudice to anything contained in any other law related to biodiversity for the time being in force read with section 59 of the Act, if the Biodiversity Management Committee at the appropriate level has reasonable grounds to believe that an offence or contravention under the Act or Rules has been committed, take necessary steps to prevent commission of such offence. Such actions may include but are not limited to:
 - (a) Inspect any person on the basis of suspicion carrying out activities in violation of the Act or Rules;
 - (b) Stop any vehicle or vessel carrying biological resource illegally and hand over to appropriate authorities;

- (c) Stop and detain person carrying out activities that require license under the Rules and hand over to appropriate authorities;
 - (d) Seize any illegally extracted threatened species or derivative and report to the forest officer or other appropriate authorities;
 - (e) Monitor violation of eco-tourism and eco-development code and report to the Board.
- (12) The Biodiversity Management Committee shall:
- (a) Ensure that any unsustainable practices of exploiting biological resource including hunting are prohibited through appropriate orders and sign boards installed by the authority of the Village Council;
 - (b) Ensure that water sources and natural springs are protected from excess utilisation;
 - (c) Demarcate areas for conservation and rehabilitation of degraded forests and protection of its biological resources in the area within its jurisdiction;
 - (d) Develop an inventory of plants, medicinal plants and animals which are on the verge of extinction with the help of the Board to intimate to the Central Government for notifying threatened species under section 38 of the Act.
- (13) The Biodiversity Management Committee shall prepare its Annual Report in such format as may be prescribed by the Board, giving full account of its activities during the previous financial year, and submit a copy thereof to the Board and a copy to the Village Council.

27. Local Biodiversity Fund

- (1) A Local Biodiversity Fund shall be constituted and operated by each Biodiversity Management Committee.
- (2) Each Biodiversity Management Committee shall for the purpose of the Act, based on their Biodiversity Management and Conservation Plan avail loans or grants from the Board. The Biodiversity Management Committees may also access such funds from other sources, or as specified by the Board.
- (3) The fund shall be used 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 use is consistent with conservation of biodiversity.
- (4) The account of the Local Biodiversity Fund shall be prepared in such forms as may be specified by the Board and during each financial year at such times as may be prescribed.
- (5) The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner, as may be specified by the Board.

28. Settlement of Disputes and Appeal

- (1) Settlement of disputes arising within the village limit or between two villages shall be done in accordance with customary laws and usages and accepted canons of justice established in Nagaland and the law in this respect as enforced in Nagaland; Any aggrieved person may prefer an appeal to the Board who shall then adjudicate the matter and in accordance with section 52 of the Act.

- (2) If a dispute arises between two or more Biodiversity Management Committees, the appeal shall be made to the Board and in case of a dispute between the Board and the Biodiversity Management Committee(s), the appeal shall be preferred with the state government.
- (3) If a dispute arises between any person and the Biodiversity Management Committee the matter may be referred to the Board for adjudication who shall then adjudicate the matter and in accordance with section 52 of the Act.
- (4) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant and the relief(s) sought for preferring the appeal and shall be accompanied by an authenticated copy of the government order or direction or decision, as the case may be, by which the appellant is aggrieved. The memorandum of appeal shall be duly signed by the appellant or their authorised representative.
- (5) The memorandum of appeal shall be submitted in quadruplicate accompanied with the authenticated copy of the order or direction or decision as the case may be, by which the appellant is aggrieved, either in person or through a registered post with acknowledgement due, within 30 days from the date of such order or direction or 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 30 days but before the expiry of 45 days from the date of the order or direction or decision as the case may be.
- (6) The notice for hearing of the appeal shall be given in Form-III by a registered post with an acknowledgement due.
- (7) Every memorandum of appeal shall be accompanied by a fee of ₹100/-.
- (8) The Board shall similarly lay down the procedure for settlement of disputes between the Board and the Biodiversity Management Committees or amongst Biodiversity Management Committees, or between any person and Biodiversity Management Committees and between Biodiversity Management Committees and Village Councils.

29. Overriding effect of Article 371'A'

In case of any dispute, paramount importance shall be given only to Article 371'A' of the Constitution of India which shall have overriding effect over such provisions.

Sd/-
(Amardeep S. Bhatia) IAS
Commissioner & Secretary to the Govt. of Nagaland

Levy of fee on access of biological resources**FORM I**

(See Rule 18)

Application form for access to or collection of biological resources for commercial utilisation and associated traditional knowledge

Part A

1. **Full particulars of the applicant**
 - (a) Name:
 - (b) Permanent address:
 - (c) Address of the contact person or agent, if any, in India:
 - (d) Profile of the applicant (personal profile in case the applicant is an individual). Please attach relevant documents of authentication:
 - (e) Nature of business:
 - (f) Turnover of the applicant in Indian Rupees
2. **Details and specific information about nature of access sought and biological material and/or associated knowledge to be accessed:**
 - (a) Identification (Scientific name) of biological resources and its traditional use:
 - (b) Geographical location (including village, block, and district) of proposed collection:
 - (c) Description/nature of traditional knowledge and its existing manifestations and uses (oral/documented):
 - (d) Any identified individual/family/community holding the traditional knowledge:
 - (e) Quantity of biological resources to be collected:
 - (f) Time span in which the biological resources are proposed to be collected:
 - (g) Name and number of person(s) authorised by the applicant for making the collection:
 - (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 or use of the resource endangers any component of biological diversity and the risks which may arise from the access:
 - (j) Whether any prior art search done and the result:
3. **Estimation of benefits that would flow to communities arising out of the use of accessed bio resources and traditional knowledge:**
4. **Proposed mechanism and arrangements for benefit sharing:**
5. **Any other information:**

Part "B"

Declaration

I/We declare that:

- Collection and use of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection and use of proposed biological resources shall not entail any adverse environmental impact;
- Collection and use of proposed biological resources shall not pose any risk to biodiversity, including ecosystems, species, and genetic diversity;
- Collection and use of proposed biological resources shall not adversely affect the local communities.

I/We undertake to pay any fee and/or royalty, as may be levied by the Board or Biodiversity Management Committees. I/We further undertake to furnish any irrevocable bank guarantee, as may be prescribed by the Board.

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.

Signed:

Name:

Title:

Place:

Date:

FORM II

Form of Memorandum of Appeal/Reference
(See Rule 28)

CHAIRPERSON, NAGALAND STATE BIODIVERSITY BOARD
OR
THE GOVERNMENT OF NAGALAND
(as the case may be)

(Memorandum of appeal/reference under the Nagaland Biological Diversity Rules, 2011)
Appeal/Reference No. _____ of 201__

..... Appellant(s)

Vs.

..... Respondent(s)

(here mention the designation of the Committee/Board)

The appellant begs to prefer this Memorandum of Appeal/Reference against the order dated _____ passed by the Respondent on the following facts and grounds.

1. FACTS:

(Here briefly mention the facts of the case):

2. GROUNDS:

(Here mention the grounds on which the appeal/reference is made):

i)

ii)

iii)

3. RELIEF SOUGHT:

i)

ii)

iii)

4. PRAYER:

- a) In the light of what is stated above, the appellant respectfully prays that the order/decision of the respondent be quashed/set-aside.
- b) The policy/guidelines/rules/regulations framed by the Respondent be quashed/modified/annulled to the extent _____
- c) _____

5. The amount of ' _____ (Rupees _____) as fee for this appeal has been paid to _____ vide Order No. _____ dated _____

Place: _____

Date: _____

Signature of the appellant with Seal

Address: _____

VERIFICATION

I/We, the appellant do hereby declare that what is stated above is true to the best of my information and belief.

Verified on _____ day of _____ 20____

Signature of the appellant with Seal

Address _____

Signature of the Authorized representative of the appellant

Enclosures: Authenticated copy of the order, direction or policy decision, against which the appeal/reference has been preferred.

FORM III
FORM OF NOTICE
(See Rule 28 [5])

By Registered Post/Acknowledgement due
CHAIRPERSON, NAGALAND STATE BIODIVERSITY BOARD

OR

THE GOVERNMENT OF NAGALAND

(as the case may be)

Appeal No.....of 201.....

Between

: Appellant(s)

Vs

: Respondents(s)

To

NOTICE

Please take the notice that the above appeal filed by the appellant, against the order/direction policy decision (Give details) is fixed for hearing on _____ at _____

The copies of the Memorandum of appeal and other annexure filed along with the appeal are sent herewith for your reference.

Please note that if you fail to appear on the said date or other subsequent date of hearing of the appeal would be disposed of finally by placing you ex-parte.

Authorized signatory on behalf of the Appellate Authority

(Seal)

Place: _____

Dated: _____

