



Review on Biological Diversity (Amendment) Act, 2023 & Biological Diversity Rules, 2004

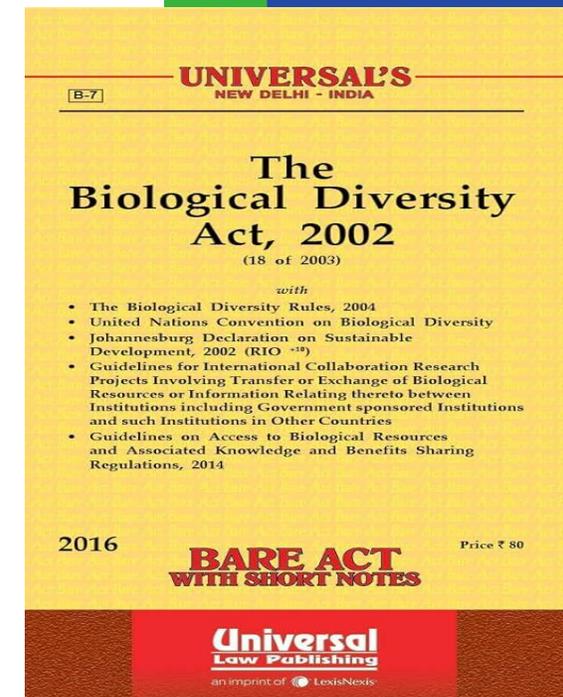
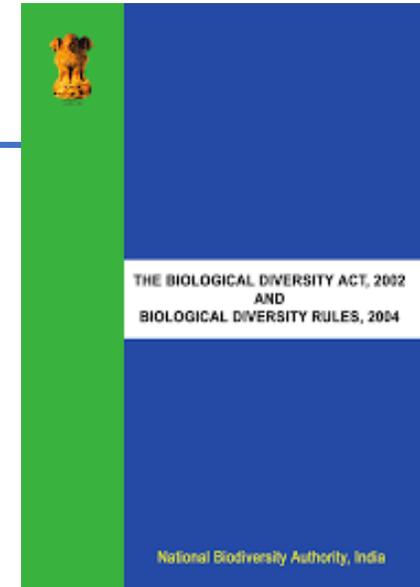
Dr B. Balaji, IFS.,
Member Secretary,
NBA

India's National Legislation

India is a Party to

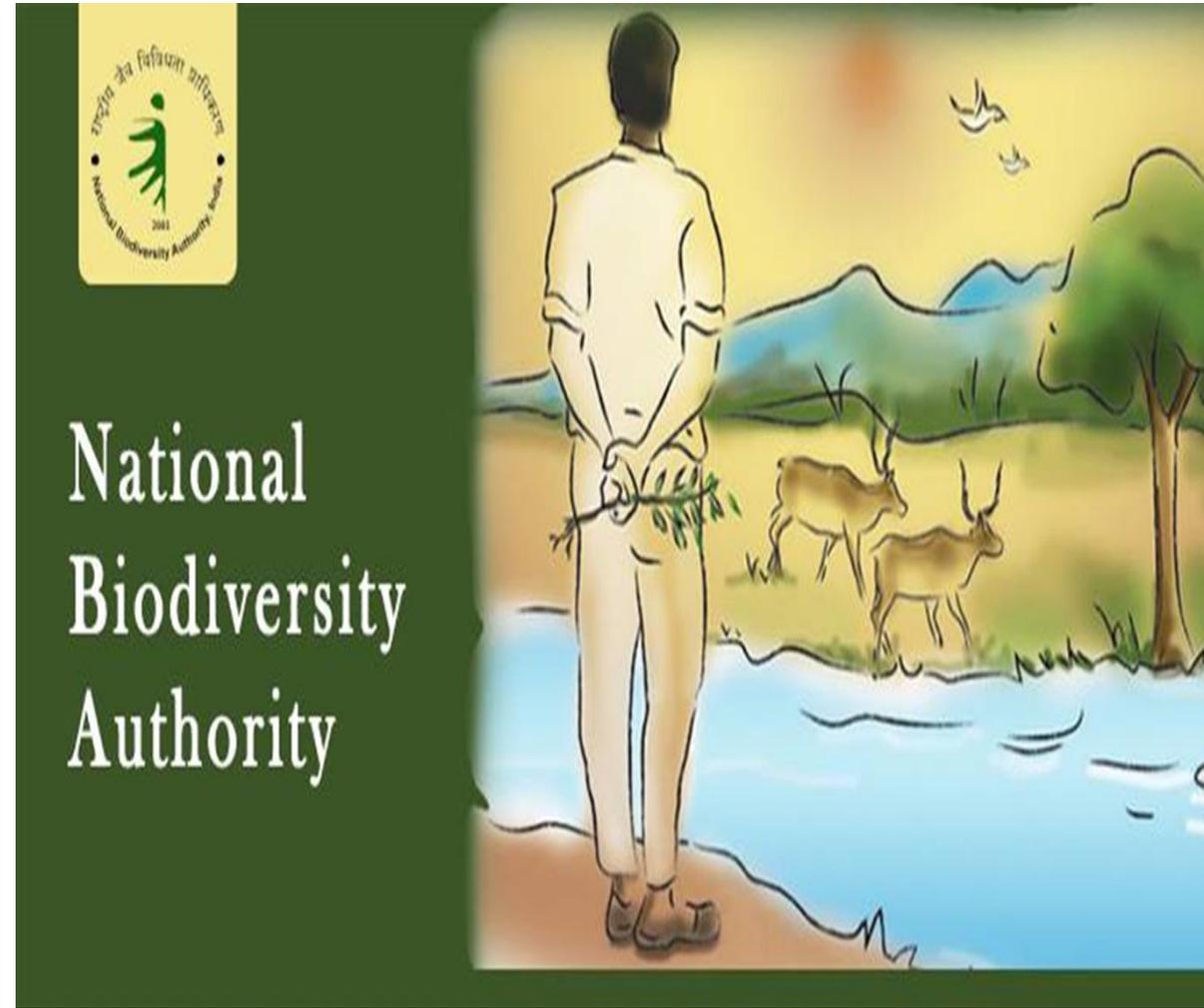
- Convention on Biological Diversity (CBD)
- Nagoya Protocol on ABS

1. Biological Diversity Act 2002 **amended in 2023**
2. Biological Diversity Rules, 2004 **amended in 2024**
3. Access and Benefit Sharing Regulations 2014 (under amendment)

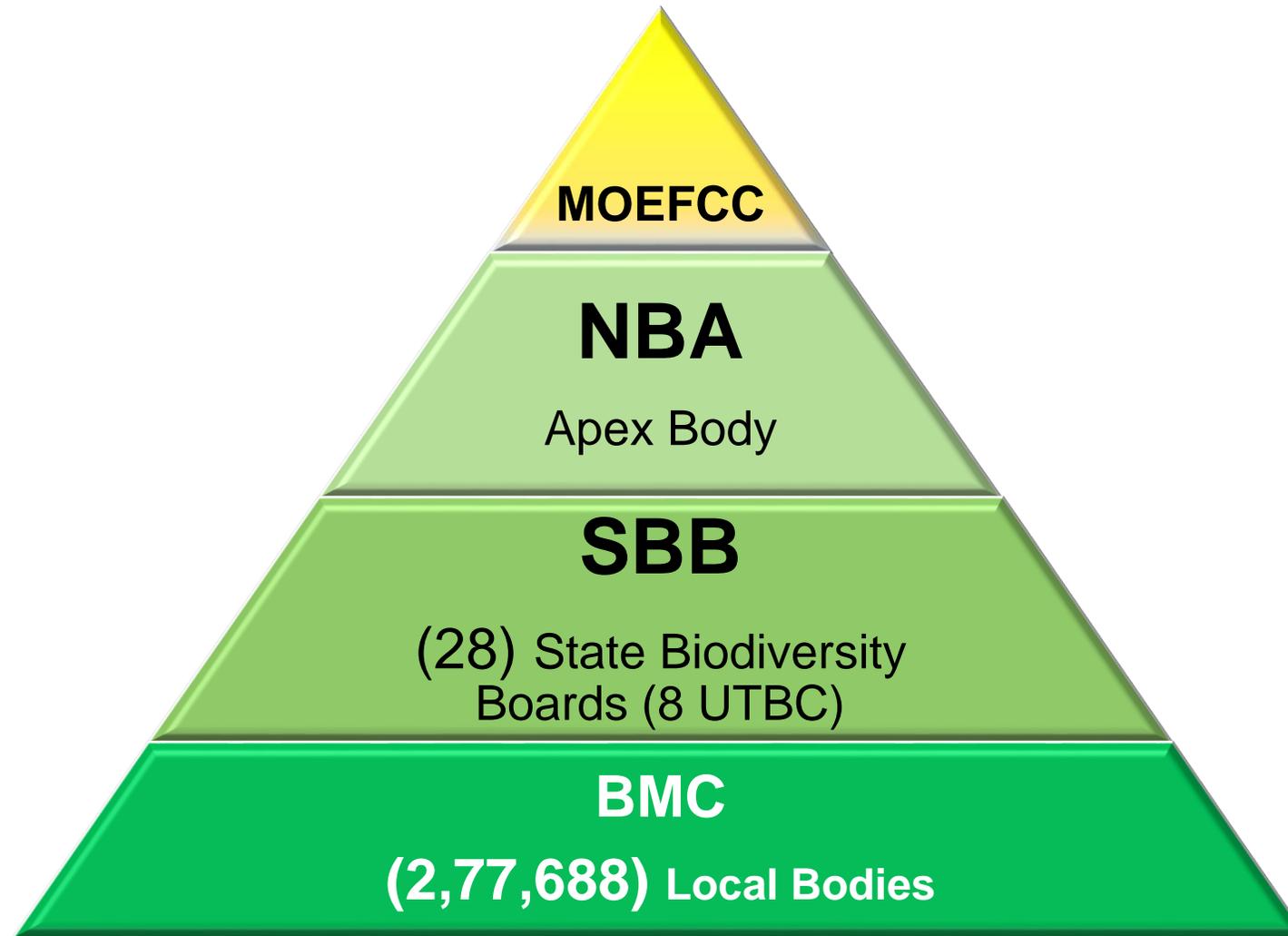


Objectives of the BD Act

1. Conservation of biodiversity
2. Sustainable use of its components
3. Fair and equitable sharing of benefits arising out of the use of bioresources

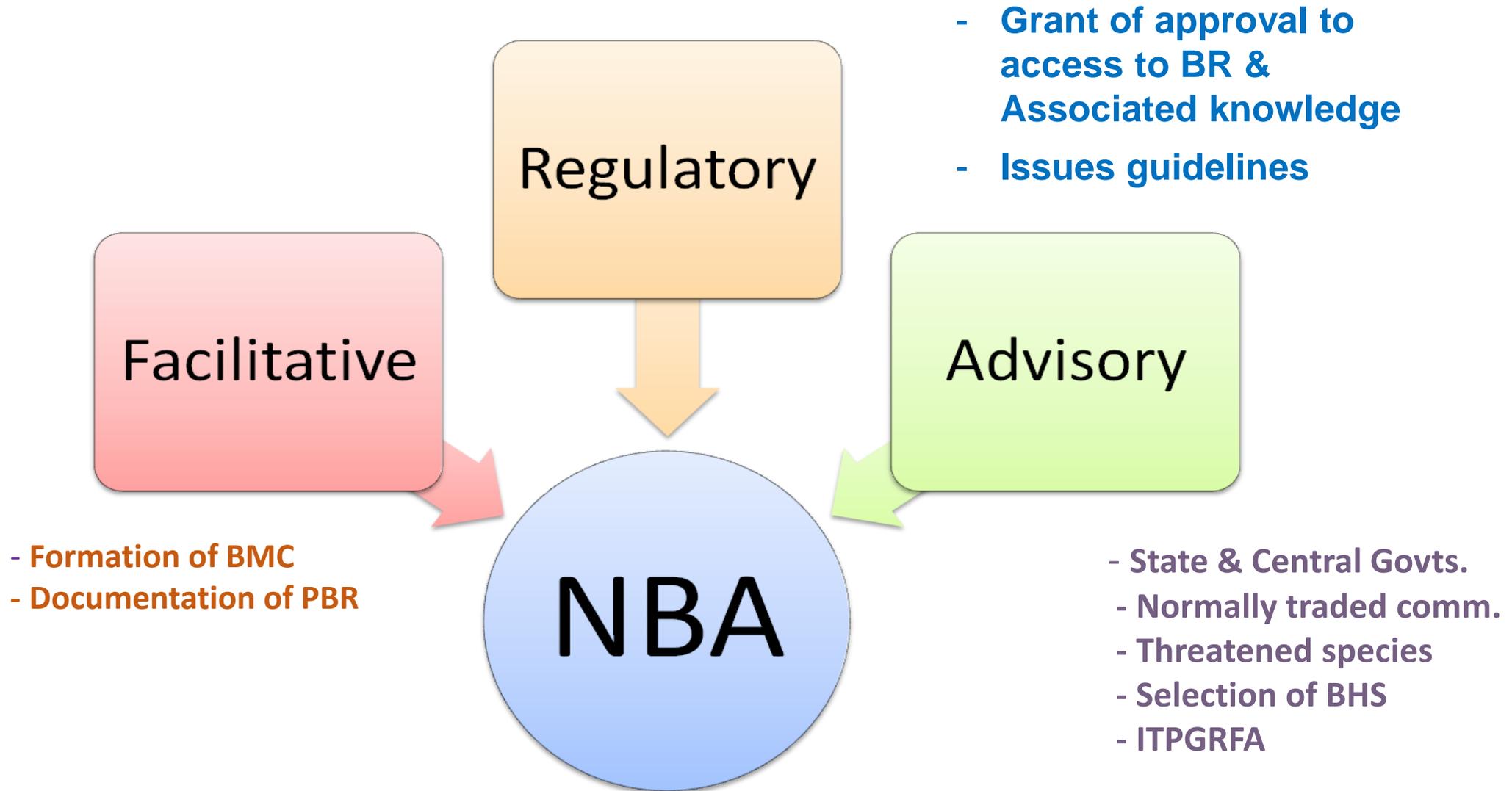


Objectives of the Act & institutional Framework



**3 – Tier
Participatory
Governance**

Functions of NBA



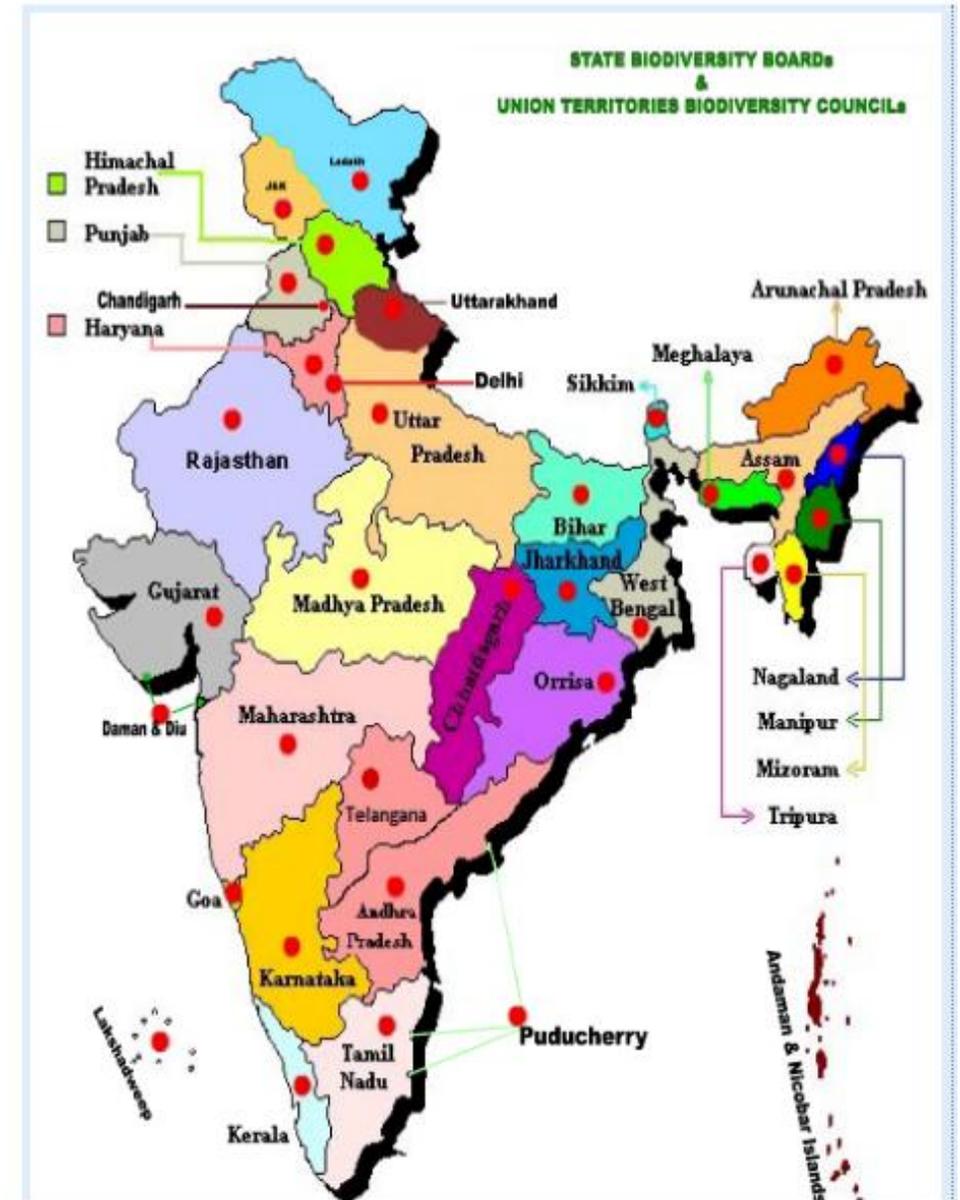
Functions of State Biodiversity Boards

1. Regulate access to Biological Resources by Indians

- Commercial utilization

2. Advise the State Government on

- Biodiversity conservation
- Heritage sites
- Threatened species



Functions of BMC

- Issue certificate of origin for cultivated Medicinal Plants
- Prepare People's Biodiversity Register in consultation with local people.
- Provide consent to access request referring by NBA/SBB
- Promoting conservation and sustainable use of biodiversity
- Preservation of habitats, conservation of land races, folk varieties and cultivars
- Levy charges from the commercial users of biological resources



Biological Diversity (Amendment) Act, 2023

- To give effect to CBD, India enacted Biological Diversity Act, 2002 and notified the Biological Diversity Rules, 2004, with the following objectives:

Conservation of biodiversity, Sustainable use of its components, and Fair and equitable sharing of benefits arising out of utilization of such resources.

- **Biological Diversity (Amendment) Act, 2023** – notified on 03.08.2024 - came into force on **01.04.2024**
- **Biological Diversity, Rules, 2024** - notified on 22.10.2024 - came into force on **22.12.2024**
- NBA is in the process of amending the Access and Benefit Sharing Regulations, 2014 in line with the amended Act and Rules.

Section 3(2)

Before

Non Resident Indian

Non-Indian

Companies not registered in India

Company Registered in India having any non-Indian participation in its share capital or Management

Income Tax Act

Section 3(2)

After

Non Resident Indian

Non-Indian

Companies not registered in India

Company Registered in India which is controlled by a foreigner within the Meaning of clause 27 of Section 2 of the Companies Act 2013

Before

Section – 4 – Transfer of Research Results

Indian or non-Indian transferring results of research to any Non-Indian requires Prior approval of NBA

After

- (a) Indian or non-Indian transferring results of research to any Non-Indian requires Prior approval of NBA**
- (b) Receiver (non-Indian) has to register with NBA for further research**
- (c) Prior approval to be obtained from NBA for commercial use / IPR on obtained results of research.**
- (d) Excluded codified TK for Indians**

Before

Section – 5 – Collaborative research projects

Section 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resource or traditional knowledge associated thereto between institutions

After

Section 3 shall not apply to collaborative research projects involving transfer or exchange of biological resource or traditional knowledge associated thereto between institutions

Before

Section – 6 – Obtaining IPRs

**Indian and non-Indian
requires PRIOR
Approval of NBA
before obtaining IPRs.**

After

- (a) Indians only registration**
- (b) Indians to take prior approval at the time of commercialization of IPR.**
- (c) Non-Indians Prior approval to be obtained from NBA for obtaining IPRs.**
- (d) Biological resources deposited outside India will also covered under this section.**

Before

Section – 7

Indian individual or company requires to prior intimation to SBBs for accessing biological resources – for bio-survey and bio-utilization for commercial utilization and for commercial utilization.

After

- (a) BR & associated knowledge**
- (b) commercial utilization**
- (c) Indians Prior intimation subject to section 23(b) and 24(2) included to give better clarity.**
- (d) Excluded cultivated medicinal plants and its products – subject to obtaining Certificate of Origin from BMCs.**
- (e) Excluded Registered AYUSH practitioners.**

Exemption for Medicinal Plants under the Amended Act

- **For Indians - exempted Cultivated medicinal plants and their products subject to obtaining Certificate of Origin from the Biodiversity Management Committee.**
- **Normally traded Commodities - access of cultivated medicinal plants, agricultural waste and other species as notified**
- **Registered AYUSH practitioners who practising indigenous medicines, including Indian systems of medicine as profession for sustenance and livelihood.**

- A simplified procedure has been introduced in the form of registration to Indians before obtaining patents. [Section 6(1A)]
- **New Section 36(A)** – Monitoring and Regulate access and utilization of the Biological Resources obtained from foreign countries for use in India as per the provisions of the Nagoya Protocol on access and benefit sharing.
- **Newly introduced Section 36(B)** enables the State Governments to develop strategies and plans for conservation and sustainable use of biological diversity.
- In order to promote trade and reduce the pressure on wild biological resources and to simplify access, **Section 40** has been amended to facilitate **the access of cultivated medicinal plants, agricultural waste and other species, as notified by the Central Government.**

Contd

➤ Section 55A- appointment of Adjudication Officer – Violation of sections 3, 4, 6 and 7 of the Act

➤ All offences have been made as civil offences instead of criminal offences - maximum penalty Rs 1.00 Crore.

F. No. CS-C12018/3/2020-CS-III
Government of India
Ministry of Environment, Forest and Climate Change
CS.III (Biodiversity) Division

Indira Paryavaran Bhawan
Vayu Block, 2nd Floor Jor Bagh,
Aliganj New Delhi - 110003.
Date: 10 January, 2025

ORDER

Subject: Appointment of Adjudicating Officer under Section 55A (1) of the Biological Diversity Act, 2002-regarding

In exercise of the powers conferred under Section 55A (1) of the Biological Diversity Act, 2002, the Central Government hereby appoints the following officers as Adjudicating officers:

- i. The Secretary in-charge, Environment/Forest Department of the State Government/ Union Territory Administration, dealing with the subject of Biodiversity, for their respective jurisdiction for the complaints filed by the State Biodiversity Board/ Union Territory Biodiversity Council.
- ii. Joint Secretary or Scientist 'G' in-charge of the Biodiversity Division of the Ministry of Environment, Forest and Climate Change, Government of India for the complaints filed by the National Biodiversity Authority.

2. The Adjudicating Officer shall be provided with requisite manpower assistance, office space and technical assistance by State Government/ Union Territory Administration, as the case may be.

3. This issues with the approval of the Competent Authority.

Achuta -
10-1-2025
(Achuta Nand Shukla)
Scientist 'E'

Biological Diversity Rules, 2024

Salient Features : BD Rules, 2024

Streamlining of Regulatory Mechanism

Activity as per Amended Act 2023	Person	Extant BD Rules		Proposed BD Rules	
		Regulatory mechanism	Time lines	Regulatory mechanism	Time lines
Research	Non-Indian	Approval from NBA	6 Months	Approval from NBA	90 days
	Indian	No Approval from SBB	as per State Rules	No approval required from SBB	-
Bio-survey and bio-utilization	Indian	Approval from SBB	as per State Rules	No approval required from SBB	-
	Non-Indian	Approval from NBA	6 months	Approval from NBA	90 days
Commercial utilization	Indian	Approval from SBB	as per State Rules	as per State Rules	-
	Non-Indian	Approval from NBA	6 months	Approval from NBA	90 days
Share or Transfer of Results of Research	Indian	Approval from NBA	90 days	Approval from NBA	90 days
	Non-Indian	Approval from NBA	90 days	Approval from NBA	90 days

Streamlining of Regulatory Mechanism

Activity as per Amended Act 2023	Person	Extant BD Rules		Proposed BD Rules	
		Regulatory mechanism	Time lines	Regulatory mechanism	Time lines
Research on the transferred results of Research by section 3(2) person	Non-Indian	Approval from NBA	6 Months	Registration with NBA	-
Using transferred results of Research by section 3(2) person for Commercial utilization or IPR	Non-Indian	Approval from NBA	180 days for commercial or 90 days for IPR	Approval from NBA	90 days
Obtaining Intellectual Property Rights	Indian	Approval from NBA	90 days	Registration with NBA before grant of Patent	-
				Approval from NBA at the time of commercializing the Patent	180 days
	Non-Indian	Approval from NBA	90 days	Approval from NBA	180 days

Salient Features : BD Rules, 2024

User Country Measures Under Nagoya Protocol on ABS [Rule 18]

- Procedure for monitoring and regulating the use of biological resource(s) and or associated traditional knowledge obtained from any foreign Country in India
- Intimation Form-10 has been introduced.

Manner of obtaining Certificate of origin for cultivated medicinal plants

- ❖ New rule prescribing the procedure to obtain Certificate of Origin for cultivated medicinal plants from BMC by Indians in order to avail exemption under section 7(2) of the Act. [Rule 19]
- ❖ Suggested separate formats for
 - issue of certificate of origin.
 - maintaining books of record of cultivated medicinal plants by the BMC

Contd

Salient Features : BD Rules, 2004

Adjudicating Officer [Rule 23]

- ❖ New rule has been prescribed governing the
 - ✓ Appointment of Adjudicating Officer by the Central / State Government for imposing penalty under section 55.
 - ✓ Powers and functions of the Adjudicating Officer
 - ✓ Manner of holding enquiry
 - ✓ Availing the service of the authorized person under section 55B
 - ✓ Factors to be considered for imposing penalty, etc. [Rule 25]
- ❖ New rule included for depositing the collected penalty in the NBF account. [Rule 26]

Salient Features : BD Rules, 2024

- ❖ Revocation of access or approval Granted by NBA/ SBB([Rule 17](#))
- ❖ Conducting non-commercial research or research for emergency purposes outside India by Indian researcher or institution ([Rule 20](#))
- ❖ Management and utilisation of National Biodiversity Fund ([Rule 21](#))

Exemptions under the Act

Act provides exemption of certain activities from its purview :

- Codified traditional knowledge, cultivated medicinal plants and their products for entities covered under section 7 of the Act.
- To growers and cultivators, vaidas and hakims, registered AYUSH practitioners for their sustenance and livelihood
- Accessing biological resources for conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or beekeeping, in India.
- Publication of research papers or dissemination of knowledge, in any seminar or workshop, if such publication is in conformity with the guidelines issued by the Central Government from time to time.
- Accessing value added products, which contain portions or extracts of plants and animals in unrecognisable and physically inseparable form.
- To biological resources, normally traded as commodities notified by the Central Government under section 40 of the Act.
- To collaborative research through government-sponsored institutes subject to conformity with guidelines and approval of the Central / State Governments.



Thanking you.....