



অসম ৰাজপত্ৰ

সত্যমেব জয়তে

# THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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No. 179 Dispur, Thursday, 17th June, 2010, 27th Jaistha, 1932 (S.E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

ENVIRONMENT AND FOREST DEPARTMENT

**NOTIFICATION**

The 24th February, 2010

**No. FRN.57/2005/187.** - In exercise of the powers conferred by Section 63 of the Biological Diversity Act, 2002 (Central Act 18 of 2003), the Government of Assam hereby makes the following rules, namely:-

**1. Short Title and Commencement**

- (1) These rules may be called the "Assam Biodiversity Rules, 2010".
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions :**

In these rules, unless the context otherwise requires,

- (a) 'Act' means the Biological Diversity Act, 2002 (Central Act 18 of 2003) of the Government of India ;
- (b) 'Authority' means the National Biodiversity Authority constituted under section 8 of the Act ;
- (c) 'Board' means the Assam Biodiversity Board established under section 22 of the Act ;
- (d) 'Biodiversity Management Committee' means the committee constituted by the local bodies under sub-section (1) of section 41 of the Act ;
- (e) 'Chairperson' means the Chairperson of Assam Biodiversity Board ;
- (f) 'Fee' means any fee stipulated in the Schedules to these rules ;
- (g) 'Form' means the formats appended to the Assam Biodiversity Rules, 2010 ;
- (h) 'Government' means the Government of Assam ;
- (i) 'Member' means a member of the Assam Biodiversity Board and includes the Chairperson of the Board ;
- (j) 'Section' means sections of the Act ;
- (k) 'Rule' means the Assam Biodiversity Rules, 2010;

- (l) 'Secretary' means the full time Secretary of the Assam Biodiversity Board ;
- (m) 'Schedule' means the schedule appended to the Rules ;
- (n) 'Year' means the financial year commencing from the first day of April ;
- (o) Words and expressions used but not defined in these rules and defined in the Act shall have the meaning respectively assigned to them in the Act.

**3. Manner of Selection and Appointment of the Chairperson :**

1. The Chairperson of the Board shall be appointed by the Government of Assam.
2. Every appointment of Chairperson under sub-rule-(1) shall be made either on deputation from other services or from outside service. In case the appointment is through deputation, the applicant should not be below the rank of Additional Chief Secretary to the Government of Assam. In case, the appointment is from outside service, the Chairperson shall be an eminent scientist having adequate knowledge and experience in the conservation and sustainable use of bio-diversity and in matters relating to equitable sharing of the benefits. The appointment shall be done on the recommendation of a three member search committee, headed by the Chief Secretary to the Government of Assam.

**4. 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 after he attains the age of 65 years .
2. The Chairperson may resign from his office by giving at least one month's notice in writing to the Government of Assam.

**5. Pay, Allowances and other conditions of service of the Chairperson :**

1. A Chairperson shall be entitled to a fixed pay as may be determined by the Government of Assam from time to time. In case, a retired person is appointed as Chairperson, his pay and allowance shall be fixed in accordance with the orders of the Government of Assam as applicable to such persons.
2. A Chairperson shall be entitled to such allowances, leave, provident fund, residential accommodation and other perquisites, etc. as may be determined by the Government of Assam from time to time.

**6. Nomination, Term of Office, Allowances, etc. of the Non-official Members :**

1. The Board shall have 5 (five) non-official Members;
2. The non-official members from amongst the experts in different fields of biology as concerned with 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 shall be nominated by the Government of Assam;
3. Every non-official member of the Board shall hold office for a term not exceeding three years at a time from the date of publication of his appointment in the official Gazette.
4. Every non-official member of the Board shall be entitled to sitting allowance at the end rate of Rs. 500/- per day and traveling allowances and such other allowances as admissible to Class - I officers of the State Government.

**7 Filling up of Vacancies of Non-official Members:**

1. A non-official member in the Board may resign his office at any time by giving a notice in writing under his hand to the Government and shall continue in office until his resignation is accepted by the Government;
2. Any casual vacancy in the Board shall be filled up by fresh appointment and the person so appointed shall hold office only for the remaining portion of the term of the member in whose place he is appointed.

**8. Removal of Members of the Board:**

No member of the Board shall be removed from the office on the grounds enumerated in section 11 of the Act without due and proper enquiry by the Government and without giving him a reasonable opportunity of being heard.

**9. Appointment of Ex-officio Members and Special Invitees :**

**1. Ex-officio members:**

Five ex-officio members shall be appointed by the Government of Assam to represent the concerned departments of the State Government:

1. The Principal Secretary/Commissioner & Secretary to the Government of Assam, Environment and Forest Department,
2. The Principal Secretary/Commissioner & Secretary to the Government of Assam, Agriculture Department,
3. The Chief Conservator of Forests, Biodiversity, Government of Assam,
4. The Director, Agriculture Department, Government of Assam,
5. The Director, Fisheries Department, Government of Assam.

**2. Special Invitees:**

The following special invitees to the meetings of the Board would be nominated by the State Government:

1. The Principal Secretary/ Commissioner & Secretary to the Govt. of Assam, Finance Department,
2. The Commissioner & Secretary to the Govt. of Assam, Animal Husbandry & Veterinary Department

**10. Head office of the Board:**

The Head office of the Board shall be located in Guwahati.

**11. Secretary of the Board:**

1. There shall be a Secretary to the Board in the rank of Chief Conservator of Forests in the State Forest Department who shall be appointed by the Board on deputation with prior approval of the Government;
2. The Secretary shall be responsible for efficient discharge of the functions of the Board, convening meetings, maintaining records of the proceedings, etc;
3. The Secretary shall be responsible for implementation of various activities under different programmes of the Board under the guidance of the Chairperson of the Board;
4. The Secretary shall exercise such powers and perform such other functions as may be assigned to him from time to time by the Board;
5. The terms and conditions of service of the Secretary shall be determined by the Government by regulation.

**12. Meetings of the Board:**

1. The Board shall meet at least four times in a year with an interval of three months at the Head office 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 five Members of the Board or upon direction of the Government of Assam, call a special meeting of the Board;
3. The meeting shall be called by notice under the signature of the Chairperson or any other officer authorized by him in this behalf, who shall cause notice to be delivered safely to each member of the Board at his last known place of residence or business either through messenger or by registered post or in such other manner as the Chairperson may, in the circumstances of the case, think fit;
4. The members shall be given at least fifteen days notice for holding an ordinary meeting and three days notice for holding a special meeting.

specifying the purpose, the time and the venue at which such meeting is to be held;

5. Every meeting shall be presided over by the Chairperson and in his/her absence by an officer to be elected by the members present from amongst themselves;

6. The decision of the Board in a meeting shall, if necessary, be taken by a simple majority of the Members present and voting and the Chairperson or in his/her absence the Member presiding shall have a second or casting vote;

7. Each member shall have one vote;

8. The quorum at every meeting of the Board shall be five;

9. No Member shall be entitled to bring forward for the consideration of a meeting any matter of which he/she has not given ten days' notice in writing unless the Chairperson in his/her discretion permits him/her to do so.

**13. Disposal of urgent matters by circulation:**

The Board may dispose of urgent matters by circulation of papers if so desired by the Chairperson. All resolutions and decisions thus made shall be reported at the next meeting of the Board for ratification.

**14. Functions of the Assam Biodiversity Board:**

Without prejudice to the provisions of the Act in general, the Board may perform the following particular functions, viz.

- (i) lay down procedure and guidelines to govern the activities under section 23 of the Act;
- (ii) advise the government on any matter concerning conservation of biological diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge;
- (iii) provide technical assistance and guidance to the departments of the State Government;
- (iv) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indian Nationals;
- (v) facilitate in updating and implementation of State Biodiversity Strategy and Action Plan;

Key  
Copied from  
US BOD Act  
Sec 23 (b).

- (vi) constitute expert committee consisting of experts and persons having local knowledge, commission studies and sponsor investigation and research;
- (vii) bio conservation and preservation of unknown potential of every gene in every species of eco-system;
- (viii) engage consultants 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 three years, the Board shall seek prior approval of the Government for such an engagement;
- (ix) collect, compile and publish technical and statistical data, manuals, codes and guidelines 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;
- (x) inventorisation, cataloguing of biodiversity, monitoring the rate of depletion, awareness creation in public, decision makers and planners and initiating scientific, administrative, legal and socio-economic measures for the protection of biodiversity;
- (xi) compile a complete database on the biodiversity resources in the State;
- (xii) development of statewide strategy for implementing biodiversity programmes;
- (xiii) identify the natural habitat of useful biological communities by enlisting the services of the locally available experts;
- (xiv) preparation of an exhaustive inventory of the species available in the natural habitat of useful biological communities and take steps to preserve them;
- (xv) take steps to build up database and to create information and documentation system for biological resources and associated traditional knowledge through biodiversity registers and electronic database to ensure effective management, promotion and sustainable uses;
- (xvi) 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 protection of information recorded in People's Biodiversity Register;
- (xvii) 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;

- (xviii) plan and organize training programmes for personnel engaged or likely to be engaged in programmes for the conservation of biological biodiversity and sustainable use of its components;
- (xix) organize through mass media a comprehensive programme regarding 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;
- (xx) setting up sufficient infrastructure and strengthening technology base in biochemistry and biotechnology including molecular systematizer;
- (xxi) preparation of annual budget of the Board incorporating its own receipts as also devolution from the Central and the State Governments and the National Biodiversity Authority;
- (xxii) recommend creation of posts to the Government for the effective discharge of functions by the Board and to create such posts:  
Provided that no such posts of any nature, whether temporary or permanent, shall be created without the prior approval of the Government;
- (xxiii) approve the method of recruitment to such posts;
- (xxiv) co-ordinate the activities of the Biodiversity Management Committees;
- (xxv) give directions to Biodiversity Management Committees in writing and through appropriate oral means for effective implementation of the Act and to facilitate their meaningful participation in all measures relating to conservation, sustainable use and equitable benefit sharing;
- (xxvi) report to the Government and the National Biodiversity Authority about the functioning of the Board and implementation of the Act;
- (xxvii) recommend, prescribe or modify collection fee of biological resources from time to time;
- (xxviii) sanction grants-in-aid and grants to the Biodiversity Management Committees for specific purposes;
- (xxix) undertake physical inspection of any area within its jurisdiction in connection with the implementation of the Act;
- (xxx) do such other functions as may be directed by the State Government from time to time.

**15. Power and responsibilities of the Chairperson:**

- (1) The Chairperson shall have the overall control of the day to day activities of the Board.
- (2) Apart from the general duties and responsibilities specified in the Act and such other powers and duties that may be devolved by the Government over the management of affairs and finances of the Board, the Chairperson shall have the powers of general superintendence over the officers and staff of the Board and the Chairperson may issue necessary directions for the conduct and management of the affairs of the Board.
- (3) The Chairperson shall be in charge of all confidential papers and records of the Board and shall be responsible for their safe custody.
- (4) All orders and instructions to be issued by the Board shall be under the signature of the Chairperson or of any other Officer authorized in this behalf by the Chairperson.
- (5) The Chairperson, either himself or through an Officer authorized by him for the purpose, may sanction, draw and disburse all payments against approved budget outlay.
- (6) The Chairperson shall have full powers for granting administrative and technical sanction to all estimates subject to ratification by the Board in subsequent meetings.
- (7) The Chairperson shall convene and preside over all the meetings of the Board and shall ensure that all decisions of the Board are implemented in proper manner.
- (8) The Chairperson shall have powers to delegate any or all specific powers enumerated above for a specific period to the Secretary or any other Officer of the Board.
- (9) 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.

**16. Employees of the Board, conditions of their services, etc.:**

The Board may appoint such officers and other employees as determined by the State Government Rules.

**17. Application and operation of State Bio-Diversity Fund:**

- (1) The State Biodiversity Fund shall be deposited in a Nationalised Bank approved by the Board in the name of the Board and operate the same in accordance with the decision of the Board and such other bye-laws as may be framed.

- (2) The State Biodiversity Fund shall be operated by the Chairperson of the Board under his seal and signature or by such other Officer of the Board as may be authorized in this behalf.
- (3) The Board shall have powers to receive funds from national and international donor agencies duly complying with the provisions of Foreign Contribution (Regulation) Act, 1976. The Secretary shall have the power to prepare and submit such proposals and also execute such projects after approval of the Board.
- (4) The Board will frame guidelines on ways to ensure that decisions regarding the management and use of the fund are transparent and accountable to the public.
- (5) The State Biodiversity Fund shall have separate heads of accounts for receipts from:-
- (i) The Central Government,
  - (ii) The National Biodiversity Authority,
  - (iii) The State Government and
  - (iv) Fee, license fee, royalty and such other receipts.

#### 18. Procedure for access to/collection of biological resources for certain purposes:

- (1) Any citizen of India or a body corporate, association or organization registered in India seeking permission of the Board for access to/collection of biological resource for commercial utilization or bio-survey and bio-utilisation for commercial utilization shall make an application as per Format - I to the Board. Every application shall be accompanied by a fee as may be fixed and notified by the Board in the form of Demand Draft drawn in favour of the Chairperson and payable at the head office of the Board.
- (2) The Board, on due consideration of the application and in consultation with the Biodiversity Management Committee(s) concerned and after collecting such other additional information as it may deem necessary, shall take decision on the application as far as possible within a period of three months of the receipt of the application.
- (3) On being satisfied with the merit of the application the Board may grant permission subject to such terms and conditions as it may deem necessary to impose.
- (4) The permission shall be in the form of a written agreement duly signed by the Chairperson or a duly authorized Officer of the Board on the one part and the applicant on the other part. The form of agreement shall be prescribed by the Board and shall contain such terms and conditions as the Board may consider necessary to protect the biological diversity of the state.

- (5) The form of agreement referred to in sub-rule (4) shall be laid down by the Board and shall include the following:-
- (a) general objectives and purpose of the application for seeking approval;
  - (b) description of the biological resources and traditional knowledge including accompanying information;
  - (c) intended uses of the biological resources (research, breeding, commercial utilization etc.);
  - (d) conditions under which the applicant may seek intellectual property rights;
  - (e) quantum of monetary and other incidental benefits;
  - (f) a commitment to enter into a fresh agreement particularly in case if the biological material is taken for research purposes and later on sought to be used for commercial purposes and also in case of any other change in use thereof subsequently;
  - (g) restriction to transfer the accessed biological resources and traditional knowledge to any third party without prior approval of the Board;
  - (h) to adhere to a limit set by the Board on the quantity and specification of the quality of the biological resources for which the applicant is seeking access;
  - (i) guarantee to deposit a reference sample of the biological material sought to be accessed with the repositories identified in Section 39 of the Act;
  - (j) commitment of submitting to the Board a regular status report of research and other developments;
  - (k) commitment to abide with the provisions of the Act and rules and other related legislations in force in the country;
  - (l) commitment to facilitate measures for conservation and sustainable use of biological resources accessed;
  - (m) commitment to minimize environmental impact of collecting activities;
  - (n) legal provisions such as duration of the agreement, notice to terminate the agreement, independent enforceability of individual clauses, provision to the extent that obligations in benefit sharing clauses survive the termination of the agreement, events limiting liability (natural calamities etc.), arbitration and confidentiality clause.
- (6) The agreement shall provide measures specifically for the conservation and protection of the biological resources.

(7) The Board shall have the full right to reject any application for good and sufficient reasons to be recorded in writing but before rejecting any application it shall give the applicant a reasonable opportunity of being heard.

(8) Any information given in the Format-I referred to in the sub rule (1) shall be kept confidential and shall not be disclosed either intentionally or unintentionally to any person not concerned there to.

#### 19. Revocation of permission:

(1) The Board may, either *suo-moto* or on the basis of any complaint; withdraw any permission granted for access under rule 18 and revoke the written agreement in the circumstances specified below, namely:-

a) on the ground of reasonable apprehension that the person to whom the permission was granted has violated any of the provisions of the Act or the conditions on which the permission was granted or he has failed to comply with any of the terms of the written agreement and conditions of permission granted;

b) in the interest of public cause or for the protection of environment and conservation of biological diversity.

(2) The revocation order shall be made only after making such enquiries as required after giving the person so affected an opportunity of being heard.

(3) The Board shall communicate a copy of such withdrawal or revocation order to the Biodiversity Management Committee(s) and the local body concerned for prohibiting the person concerned from accessing and utilizing the biological resources and also to assess the damage, if any, caused and to recover the damages.

#### 20. Restriction on Activities related to access to Biological resources

The Board, if it deems necessary and appropriate, shall take 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 livelihood of local people;
- (d) the request for 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 functions;
- (f) use of resources for purposes contrary to national interest, other related international agreements entered into by India and interest of the State of Assam.

**21. Procedure for third party transfer of biological resource or knowledge**

Whereas as per Section 20 of the Biological Diversity Act, 2002, no person who has been granted approval to access any biological resource or knowledge shall transfer the biological resource or knowledge associated thereto which is a subject matter of the said approval, to any other person or party except with the prior permission, the following procedures are being laid down for third party transfer of biological resource or knowledge.

- (1) The person(s) who have been granted approval for access to biological resources and associated knowledge by the Board intends to transfer the accessed biological resources or knowledge to any other person or organization shall make an application to the Board in Format - II appended to this rule
- (2) Every application under sub-rule (1) shall be accompanied by a fee of ten thousand rupees in the form of a Demand Draft or Banker's Cheque drawn in favour of the Board.
- (3) The Board shall after collecting any additional information, decide upon the application as far as possible within a period of six months of receipt of the request.
- (4) On being satisfied that the applicant has fulfilled all the necessary requirements the Board may grant approval for third party transfer subject to such terms and conditions it may deem fit to impose in each case.
- (5) The approval as may be granted under sub-rule (4) shall be in the form of a written agreement duly signed by an authorized officer of the Board, the applicant and the third party to which access is being transferred. The form of the agreement shall be such as may be decided by the Board.
- (6) The Board may for reasons to be recorded in writing reject the application if it considers that the request cannot be acceded to:  
 Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

**22. Criteria for Equitable Benefit Sharing:**

Whereas as per Section 21 of the Biological Diversity Act, 2002, it should be ensured that the terms and conditions subject to which approval of access to biological resources and associated knowledge is granted secure equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person(s) applying for such approval, local bodies concerned and the benefit claimers, the following criteria for equitable sharing of benefits are laid down:-

- (1) The Board shall by notification in the Official Gazette formulate the guidelines and describe the benefit sharing formula.
- (2) The guidelines shall provide for monetary and other benefits such as royalty; joint ventures; technology transfer; product development; education and awareness raising activities; institutional capacity building and venture capital fund.
- (3) The formula for benefit sharing shall be determined on case-by-case basis.
- (4) The Board while granting approval to any person(s) for access or for third party transfer of the accessed biological resource and associated knowledge may impose terms and conditions for ensuring equitable sharing of the benefits arising out of the use of accessed biological material and associated knowledge.
- (5) The quantum of benefits shall be mutually agreed upon between the persons applying for such approval and the Board in consultation with the local bodies and benefit claimers and may be decided in due regard to the defined parameters of access, the extent of use, the sustainability aspect, impact and expected outcome levels including measures ensuring conservation and sustainable use of biological diversity.
- (6) Depending upon each case, the Board shall stipulate the time frame for assessing benefit sharing on short, medium and long term benefits.
- (7) The Board shall stipulate that benefits shall ensure conservation and sustainable use of biological diversity.
- (8) Where biological resources or knowledge is accessed from a specific individual or a group of individuals or organizations the Board may take steps to ensure that the agreed amount is paid directly to them through the District Administration. Where such individuals or group of individuals or organizations cannot be identified the monetary benefits shall be deposited in the State Biodiversity Fund.
- (9) Five per cent of the assessed benefits shall be earmarked for the Board towards administrative and service charges.
- (10) The Board shall monitor the flow of benefits as determined under sub-rule (4) in a manner determined by it.

### 23. Annual Report and Annual Statement of Accounts:

- (1) The Board shall prepare its annual report for each year giving detailed account of its plan of action, activities, achievements and such other details as it may consider appropriate and necessary and the annual statement of accounts and submit a copy thereof to the Government.

(2) The accounts of the Board shall be audited by the Accountant General of the State and the expenditure, if any, towards it shall be borne by the Board.

(3) The Board shall submit the annual report together with the audited statement of accounts for each year to the Government by the 30<sup>th</sup> of the month of September following so as to enable the Government to lay them before the Legislative Assembly.

#### **24. 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 biodiversity 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.

(2) The Board shall frame guidelines on the selection, management and other aspects of Heritage Sites ensuring that these provide decision making role for concerned Biodiversity Management Committees.

#### **25. Constitution of Bio-diversity Management Committees:**

(1) Every local body shall constitute a Biodiversity Management Committee (BMC) within its area of jurisdiction. Accordingly Biodiversity Management Committees are to be constituted at Zila Parishad and Gaon Panchayat level as well as Municipality and Municipal Corporation level.

(2) If the local body is satisfied that the function of the BMC can be discharged by the general assembly of the local body or by one of its existing committees the same should be recorded as resolution passed by such local body following due procedure.

(3) The Biodiversity Management Committees constituted under sub rule(1) shall have seven persons nominated by the local body of whom not less than one third shall be women. Seven local knowledgeable persons being so nominated should be drawn from amongst the herbalists, agriculturalists, Non Timber Forest Produce collectors/traders, fisher folk, representatives of user associations, community workers, academicians and any person/ representative of organization whom the local body trusts that he can significantly contribute to the mandate of the Biodiversity Management Committee. The proportion of members belonging to the Scheduled Caste and Scheduled Tribe shall not be less than Scheduled Caste / Scheduled Tribe population percentage of the district where such a committee is set up. All the above should be residents within the said local body limits and be in the voters list.

(4) The local body shall nominate six special invitees from forest, agriculture, livestock, health, fisheries and education department.

- (5) The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be presided over by the Chairperson of the local body. The Chairperson of the local body shall have the casting vote in case of a tie.
- (6) The Chairperson of the Biodiversity Management Committee shall have a tenure of five years.
- (7) The local Member of the Legislative Assembly and Member of Parliament would be special invitees to the meetings of the Biodiversity Management Committee at different levels.
- (8) A technical support group comprising of experts in the field of biodiversity drawn from government agencies, Non Governmental Organizations, academic field, community and individuals shall be established by Zila Parishad/Gaon Panchayat. The expert group shall lend support to Biodiversity Management Committees.
- (9) The key mandate of the Biodiversity Management Committees will be to ensure conservation, utilization and equitable sharing of benefits from the biodiversity. The Biodiversity Management Committees shall facilitate preparation of people's Biodiversity Registers. The People's Biodiversity Registers shall be prepared at the Gaon Panchayat/ Municipality/ Municipal Corporation Biodiversity Management Committee level by using the process and the format set by the Board. 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. The Zila Biodiversity Management Committee shall be responsible for developing a district wide network of People's Biodiversity Register database. The Biodiversity Management Committees and local bodies will be responsible for ensuring the protection of the knowledge recorded in the People's Biodiversity Registers especially to regulate its access to outside agencies and individuals.
- (10) 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 Vaids/Bez/Ojha and practitioners using the biological resources.
- (11) The Zila Parishad and Gaon Panchayat Biodiversity Management Committees shall strive to mainstream biodiversity conservation concerns in the developmental planning at local level.
- (12) The Board shall 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.

- (13) The Biodiversity Management Committees 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.
- (14) The Biodiversity Management Committee at Gaon Panchayat/ Municipality/ Municipal Corporation level may decide the terms on which it would 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 resources for commercial purpose from the area falling within its jurisdiction. The 60% of levy charged for the material collected/ cultivated from private land should be given to the owner/ cultivator of the land/ knowledge holder(s) and the balance 40% should be deposited in Local Biodiversity Fund of the Biodiversity Management Committee. The levy charged for the material collected/ cultivated from government land should be totally deposited in Local Biodiversity Fund of the Biodiversity Management Committee.
- (15) The Board shall provide guidelines for terms of access and fee collection by the Biodiversity Management Committees.
- (16) The Gaon Panchayat/ Municipality/ Municipal Corporation level Biodiversity Management Committees shall prepare a Biodiversity Management Plan using output from People's Biodiversity Registers and will be responsible for or participate in its implementation.
- (17) The local bodies shall ensure that the Biodiversity Management Committees are integrated with the functioning of existing local institutions by cross-membership, regular coordination meetings and other such measures, as determined by the local bodies or as specified by the Board.

#### 26. Utilisation of Local Biodiversity Fund:

- (1) At the level of local body the Local Biodiversity Fund shall be constituted
- (2) The Local Biodiversity Fund shall be utilized strictly in accordance with the provisions of sub-section (2) of section 44 of the Act which states that the fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.
- (3) The Fund shall be deposited in a Nationalized Bank/ scheduled Bank approved by the Biodiversity Management Committee and it shall be operated by the Chairperson of the Committee under his seal and signature or any other officer of the Biodiversity Management Committee as may be authorized in this behalf.

**27. Annual Report and Annual Statement of Accounts of Biodiversity Management Committees:**

- (1) The Biodiversity Management Committee shall prepare the annual report for each year giving detailed accounts of its activities. The annual report shall invariably contain: -
- (a) name of the Committee;
  - (b) period to which the report relates;
  - (c) incumbency of office for the period;
  - (d) detailed statement of programmes of action for the year;
  - (e) detailed report on the activities performed during the year;
  - (f) a brief account of financial position of the Committee.
- (2) The accounts of the Local Biodiversity fund shall be audited by the Examiner of Local Fund Audits.
- (3) The Biodiversity Management Committee shall submit the annual report together with the audited statement of accounts to the local body concerned by the 30<sup>th</sup> of the month of September following to enable the Local Body to submit it to the District Collector.

**28. Removal of doubts:**

Where a doubt arises as to the interpretation of any of the provisions of these rules the matter shall be referred to the Government whose decision thereon shall be final.

**29. Appeal for settlement of disputes:**

- (1) If a dispute arises between the Authority and the Board or between one Board and other Board(s) on account of implementation of any order/direction or on 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 VI appended to the Biological Diversity Rules, 2004 to the Secretary, Government of India, Ministry of Environment and Forests or to the Chairperson, National Biodiversity Authority in the case of dispute between one Board and other Board (s).
- (2) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant for preferring the appeal and the relief sought for, 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 appellant/authorized representative of the appellant.
- (3) The memorandum of appeal shall be submitted in quadruplicate accompanied with the authenticated copy of the order, directions 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 30 days from the date of the order, direction or policy decision impugned:

Provided that if the appellate authority is satisfied that there was good and sufficient reason for the delay in preferring the appeal, it may, 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, direction, or policy decision as the case may be.

- (4) The notice for hearing of the appeal shall be given in Form- VII appended to the Biological Diversity Rules,2004 by registered post with an acknowledgement due.
- (5) If a dispute arises between any person or groups of persons or communities or agencies or organizations or local bodies or Biodiversity Management Committees on account of implementation of any order/direction or on any issue of policy decision in regard to access and use of biological resources and related knowledge in the State of Assam, either of the aggrieved parties may prefer an appeal to the Secretary, Government of Assam, Department of Environment and Forests in Format-III appended to these rules within 30 days from the date of the order, direction or policy decision impugned. The notice for hearing of the appeal shall be given in Format-IV appended to these rules by registered post with an acknowledgement due.
- (6) Every memorandum of appeal made to the Secretary, Government of Assam, Environment and Forest Department shall be accompanied by a fee of Rs. 100/-.  
 (7) The Board shall lay down the procedure for settlement of disputes between Board and the Biodiversity Management Committees or amongst Biodiversity Management Committees, and between Biodiversity Management Committee and relevant Local Bodies.

### 30. Making complaint and manner of giving notice under Section 61:

- (1) A complaint under section 61 for cognizance of any offence under the Act shall be made before appropriate Court of Law by Officers of the State Biodiversity Board not below the rank of Scientist "C" within the State of Assam or by Forest Officers not below the rank of Range officers in their respective jurisdiction as notified by the Government of India vide S.O.No 2708(E) dated 17<sup>th</sup> November, 2008 and S.O. No 120(E) dated 7<sup>th</sup> January, 2009.
- (2) The manner of giving notice under clause (b) of section 61 shall be as follows namely:-
  - (i) The notice shall be in writing in Form- VII appended to the Biological Diversity Rules,2004 copy of which is annexed after these rules at Annexure "A" in matters National Biodiversity Authority is having jurisdiction over.
  - (ii) If violation of any provision of the Biological Diversity Act, 2002 is detected or observed by any person or groups of persons or communities

or agencies or organizations or local bodies or Biodiversity Management Committees in matters falling within jurisdiction of the State Biodiversity Board a complaint may be made to the State Biodiversity Board of Assam in Format - V appended to these Rules:

- (iii) The person giving the notice shall send it to the Chairman of the National Biodiversity Authority/State Biodiversity Board as the case may be by registered post acknowledgement due:

Provided that the period of thirty days mentioned in clause (b) of Section 61 of the Act shall be reckoned from the date of receipt of the notice by the Chairman, National Biodiversity Authority/State Biodiversity Board.

### 31. Framing of Guidelines by State Biodiversity Board:

Without prejudice to any of the provisions of the Biological Diversity Act, 2002 and the Biological Diversity Rules, 2004 of the Government of India and the Assam Biodiversity Rules, 2008 framed by the Government of Assam, the Assam Biodiversity Board may frame any guideline(s) as it may deem fit and necessary for carrying out within the State of Assam the provisions of the Biological Diversity Act, 2002:

#### **FORMAT - I**

(See rule 18)

Application form for seeking approval of Assam Biodiversity Board for access to Biological resources and associated traditional knowledge

#### **PART - A**

#### 1. Full particulars of the applicant

- Name
- Permanent address
- Profile of the organization (personal profile in case the applicant is an individual)
- Nature of business
- Turnover of the organization (in Rs.....)

#### 2. Details and specific information about nature of access sought and biological material and associated knowledge to be accessed

- identification (scientific name) of biological resources and its traditional use
- Geographical location of proposed collection
- Description/nature of traditional knowledge (oral/documentary)
- Any identified individual/community holding the traditional knowledge
- Quantity of biological resources to be collected (give the schedule)
- Time span in which the biological resources is proposed to be collected
- Name and number of person 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. Details of any institution which will participate in the Research and Development activities
  4. Primary destination of accessed resource and identity of the location where the R&D will be carried out
  5. The economic and other benefits including those arriving out of any IPR, patent obtained out of accessed biological resources and knowledge that are intended or may accrue to the applicant or to the country that he/she belongs
  6. The biotechnological scientific social or any other benefits obtained out of accessed biological resources and knowledge that are intended, or may accrue to the applicant or to the state that he/she belongs
  7. Estimation of benefits, that would flow to Assam/communities arising out of the use of accessed bio-resources and traditional knowledge
  8. Proposed mechanism and arrangements for benefit sharing
  9. 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 is true and correct and I/we shall be responsible for any incorrect/wrong information.

Signed

Name

Title

Place :

Date :

**FORMAT - II**

(See rule 21)

Application for seeking approval of Assam Biodiversity Board for third party transfer of the accessed Biological resources and associated traditional knowledge

1. Full particulars of the applicant
  - (a) Name
  - (b) Address
  - (c) Professional profile
  - (d) Organizational affiliation (please attach relevant documents of authentication)
2. Details of the biological material and traditional knowledge accessed
3. Details of the access contract entered (copy to be enclosed)
4. Details of the benefits and mechanism/arrangements for benefit sharing already implemented.
5. Full particulars of the third party to whom the accessed material/knowledge is intended to be transferred
6. The purpose of the intended third party transfer
7. Details of economic, social biotechnological, scientific or any other benefits that are intended, or may accrue to the third party due to transfer of accessed biological material and knowledge
8. Details of any agreement to be entered between the applicant and the third party
9. Estimation of benefits that would flow to Assam/communities arising out of the third party transfer of accessed biological resources and traditional knowledge
10. Proposed mechanism and arrangements for benefit sharing arising out of the proposed third party transfer
11. Any other relevant information

**Declaration**

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

Signed

Name

Title

Place :

Date :

**FORMAT - III**

(See rule 29)

**FORM OF MEMORANDUM OF APPEAL**

**BEFORE THE SECRETARY, DEPARTMENT OF ENVIRONMENT AND FORESTS,  
GOVERNMENT OF ASSAM**

(Memorandum of appeal under Rule 29(5) of the Assam Biodiversity Rules, 2010)

Appeal No. \_\_\_\_\_ of 200

\_\_\_\_\_ Appellant (s)

Vs

\_\_\_\_\_ Respondent(s)  
State Biodiversity Board of Assam

(\* here mention the designation of the officer of the Board)

The appellant begs to prefer this Memorandum of Appeal 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. GROUND**

(Here mention the grounds on which the appeal 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/regulation framed by the Respondent be quashed/modified/annulled to the extent \_\_\_\_\_
- c) \_\_\_\_\_

Signature of the appellant

With seal

Address

Place :

Dated :

VERIFICATION

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

Verified on \_\_\_\_\_ day of \_\_\_\_\_

Signature of the appellant  
With seal  
Address

Signature of the Authorized representative of the appellant

Enclosures : 1. Authenticated copy of the order/direction/policy decision against which the appeal has been preferred.

**FORMAT - IV**

(See rule 29(5))

BEFORE THE SECRETARY, DEPARTMENT OF ENVIRONMENT AND FORESTS,  
GOVERNMENT OF ASSAM, DISPUR, GUWAHATI - 781006

OR

ASSAM BIODIVERSITY BOARD, GUWAHATI

Appeal No. \_\_\_\_\_ of 200\_\_

Between

..... Appellant (s)

VERSUS

..... Respondent(s)

**NOTICE**

Please take 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 appeal memorandum 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 the appeal would be disposed of finally by placing you *ex-parte*.

Date

Place

Authorized signatory on behalf of the Appellate Authority (Seal)

ANNEXURE

FORM VII

FORM OF NOTICE

(See rule 24 (1))

By Registered Post/ Acknowledgement due

From,

Shri \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

To,

\_\_\_\_\_

\_\_\_\_\_

Sub: NOTICE UNDER SECTION 61 (b) OF THE BIOLOGICAL DIVERSITY ACT, 2002.

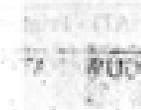
Whereas an offence under the Biological Diversity Act, 2002 has been committed/ is being committed by \_\_\_\_\_

1. I/ We hereby give notice of 30 days under Section 61 (b) of the Biological Diversity Act, 2002 of my/ our intention to file a complaint in the Court against \_\_\_\_\_ for violation of the provisions of the Biological Diversity Act, 2002.

2. In support of my/ our notice, I am/ we are enclosing herewith the following documents as evidence of proof.

Place : \_\_\_\_\_

Date : \_\_\_\_\_



Signature

**EXPLANATION :**

- (1) In case of notice to be given in the name of a company, documentary evidence authorizing the person to sign the notice on behalf of the company shall be enclosed to the notice.
- (2) Give the name and address of the alleged offender. In case of using biological resource/ knowledge/ research/ bio-survey and bio utilization/ the intellectual property right/ patent, without the approval of the Authority, the details thereof and the commercial utilization if any, may be furnished.
- (3) Documentary evidence shall include photograph, technical report etc. for enabling enquiry into the alleged violation/ offence.

Joint Secretary to the Govt. of Assam,  
Environment and Forest Department, Dispur.