

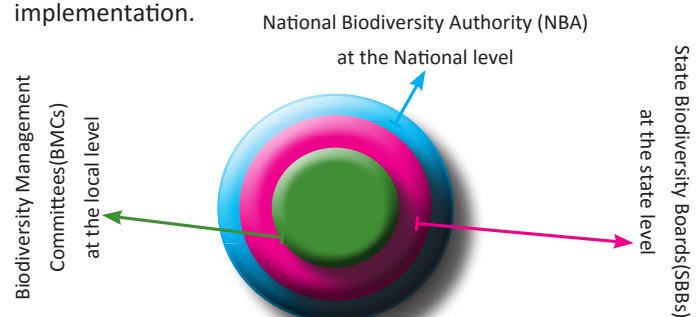


National Framework on Access and Benefit Sharing

Under the Biological Diversity Act, 2002

Implementation of ABS through the BD Act, 2002

BD Act, 2002 envisages a decentralized three tier system of its implementation.



NBA is an Autonomous and Statutory body of the Ministry of Environment, Forest and Climate Change, performing facilitative, regulatory and advisory role in accordance with the provisions of the BD Act.

Access to Biological Resources

Persons to apply: Any Non-Indian / NRI / body corporate or organization having non-Indian share capital or management

When to apply: Before obtaining any biological resources occurring in India or knowledge associated for

- research
- commercial utilization
- bio-survey and bio-utilization

Apply in: Form I
Fees : Rs.10000/-



Obtaining IPRs

Persons to apply: Any person seeking Intellectual Property Rights within or outside India for any invention based on any research or information on any biological resources obtained from India

When to apply: Before seeking IPR

Apply in: Form III
Fees : Rs.500/-



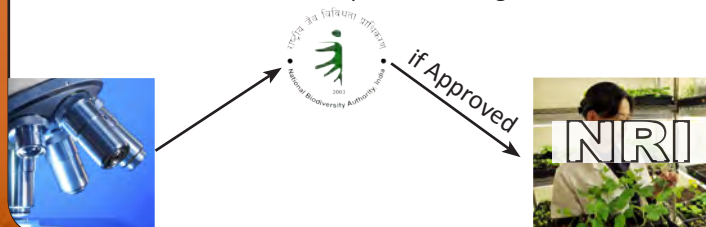
Transfer of Research Results

Persons to apply: Any person (including Indian citizens, Foreigners, Foreign / Indian entities / NRI)

When to apply: Before transfer of research results related to any biological resources occurring in or obtained from India for monetary benefits or otherwise to any

- Non-Indian
- Non Resident Indian
- Body corporate or organization having non-Indian share capital or management

Apply in: Form II
Fees : Rs.5000/-



Third Party Transfer of BRS

Persons to apply: Persons / Entities accessing BRs under Form-I

When to apply: Before transferring accessed BRs to third Party who is a

- Indian Citizen
- Non-Indian
- Non Resident Indian
- Entities regd. / incorporated in India with or without foreign participation in share capital or management including companies with 100% govt. share holding
- Entities not registered or incorporated in India

Apply in: Form IV
Fees : Rs.10000/-



Approvals by NBA

1. Access (Sec 3) for;

- Research
- Commercial utilization
- Biosurvey and Bio-utilisation

2. Transfer of research results (Sec 4)

3. Obtaining Intellectual Property Rights [IPR] (Sec 6)

4. Third party transfer of Biological Resources [BRs] (Sec 20)



Exemptions under the BD Act

From Section 3

- Collaborative research projects that confirm to the policy guidelines issued by the Central Government
- Conventional breeding, traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping
- Access to Annex-I PGRFA of the Plant Treaty designated by the Department of Agriculture and Cooperation (DAC)

From Section 4

- Collaborative research projects that confirm to the policy guidelines issued by the Central Government
- Publication of research papers or dissemination of knowledge in any seminar or workshop
- Transfer of research result in relation to Annex-I PGRFA designated by the Department of Agriculture and Cooperation (DAC)

From Section 6

- Any right under PPVFRA in India

No provisions of the ACT is applicable to

- Human genetic resources,
- Value Added Products,
- Items Normally Traded as Commodities as notified by the Central Govt.



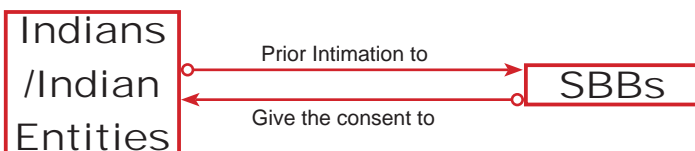
Approval to Indians

Persons to apply: Indians / body corporates, associations / organizations registered in India

When to apply: Before obtaining biological resources for

- Commercial utilization
- Bio-survey and bio-utilisation for commercial utilization

Where to apply: Prior intimation to the SBB concerned



Revocation of Access or approval

NBA can revoke the approval granted

Revocation will be either *suo moto* or based on complaint

Grounds for revocation:

- Violation of the provisions of the Biological Diversity Act, 2002 (Act) or conditions on which the approval was granted
- Non-compliance of the terms of the benefit sharing agreement signed between applicant and NBA
- Failure to comply with any of the condition of access granted
- Overriding public interest or for protection of environment and conservation of biological diversity



Violation

Contravention of the provisions of Sections 3, 4, 6, 7 or 24 (2) of the BD Act, 2002 is cognizable and non-bailable offence

Attempt to contravene or abetment of contravention of the above provisions is also punishable.

Offence in relation to Section 3, 4 and 6 is punishable with imprisonment which may extend to five years or fine upto ten lakh rupees or with both and where the damage exceeds ten lakh rupees such fine may commensurate with the damage caused.

Offence in relation to Section 7 or an order of any SBB under Section 24 (2) is punishable with imprisonment upto 3 years or fine upto 5 lakh rupees or both.

Exemptions for Indians

From Section 7

- Indian citizens / entities for research carried out in India
- Conventional breeding, traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping
- Vaids and Hakims, Local people and Communities who have been practicing indigenous medicine



Appeals

National Green Tribunal is the appellate authority in respect of

- Determination of Benefit sharing by NBA
- Orders of NBA/SBBs

The appeal needs to be filed within 30 days from the date of communication to the applicant.



Benefit Sharing Component

NBA, while granting approvals under Section 19 and Section 20, ensures sharing of benefits monetary and/or non-monetary, in accordance with MAT between the applicant and the concerned local bodies and benefit claimers



For Further details
please contact..

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Steps for processing the ABS applications

